

City of Alexandria, Virginia

MEMORANDUM

DATE: NOVEMBER 21, 2003

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER 

SUBJECT: LEASES FOR OFFICE SPACE AND PARKING SPACES FOR THE ALEXANDRIA POLICE PATROL, PARKING ENFORCEMENT AND COMMUNITY SUPPORT UNITS

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**ISSUE:** Consideration of two five-year leases for property located at 2900 Eisenhower Avenue (Avalon Bay) for 15,000 square feet of office space and 60 parking spaces and for 75 parking spaces at 2960 Eisenhower Avenue (Simpson Properties).

**RECOMMENDATION:** That City Council authorize the City Manager to execute, on behalf of the City, and to deliver the leases (Attachments 1 and 2), in substantially the form presented to the Council with such changes as are approved by the City Manager and the City Attorney. The execution of the leases by the City Manager shall constitute conclusive evidence of his approval, and that of the City Attorney, of any and all changes from the documents made available to Council.

The leased space will be occupied by 203 employees in the Alexandria Police Department's Patrol, Parking Enforcement and Special Operations Units. Finding suitable office space with sufficient parking for police operations has been difficult. Proximity to the Public Safety Center is important to maintain secure parking for patrol vehicles, and to maintain a link between programs that will remain at the Public Safety Center.

**BACKGROUND:** When the Public Safety Center opened in 1987 there were a total of 490 Police, Sheriff and Magistrate employees. Since then, the number of employees has increased by 30% to 635 employees, the majority of whom work for the Police Department. In addition to the crowded working conditions, unstable soil under the first floor slab of the Police Department and a small portion of the Sheriff's Office have caused structural issues that need to be corrected. This requires vacating the first floor of the Police Department during the first part of 2004 so that the necessary construction work can be started in late summer or early fall of 2004. In addition, the construction of the Mill Road Ramp to the Woodrow Wilson Bridge will be occurring from now until completion of the ramp in 2007. The ramp is located in the front parking lot of the Public Safety Center, and the ramp construction will reduce the amount of parking available and make access and egress to the Public Safety Center more difficult (Attachment 3).

**DISCUSSION:** In order to alleviate the crowded conditions at the Police Department, a number of units (Vice Narcotics, Street Crimes, Hack Office, and Special Operations) already have been relocated into leased space. In January the Police Administration and Criminal Investigations Sections will relocate to leased space at 2034 Eisenhower Avenue, which was approved by Council in May 2003. The lease of 15,000 square feet of office space at 2900 Eisenhower Avenue is another component of our short-term space plan, enabling other Police units to move off of the first floor of the PSC to vacate that space for the slab replacement project.

The proposed lease for 15,000 square feet of office space includes 60 parking spaces provided in the adjacent garage. The 60 parking spaces combined with an additional 75 spaces to be leased from Simpson Properties would provide a total of 135 on-site parking spaces for employees and would also accommodate the Patrol fleet. The proximity of the PSC and the Administration Division, which will be located at 2034 Eisenhower Avenue, to 2900 Eisenhower Avenue makes this arrangement operationally viable over the next five to seven years.

Once Police staff relocates to the leased space, the remaining space on the second and third floors will be reassigned to the Sheriff's Office and those remaining from the Police Department (Records, Property and Communications). At this point, 318 Police and Sheriff employees will be at the PCS, 114 Police employees at 2034 Eisenhower and 203 Police employees at 2900 Eisenhower.

The landlord has agreed to make the necessary improvements according to City plans and specifications. The space to be occupied is in good condition, requiring minimal build-out. The Police are currently scheduled to move into the space this spring. City improvements to the space not included in the Landlord's work are telephone system installation and cabling; furniture; Local Area Network connection and Information Technology equipment; an internal security system and the Police Radio System. The Police will have 24 hour, seven-day-a-week access to the space.

A staff committee is working on the plans for interim uses at the Public Safety Center during the slab construction and also is preparing a plan for use of the building once the slab work is completed. We have found that there is insufficient space to return the entire Police Department to the Public Safety Center. Because of the constraints of the site and the addition of the Mill Road ramp, it is not possible to expand the current facility to meet Police needs. We anticipate that the needs of the Office of Sheriff as well as those of some Police functions that may be retained at the facility because of its co-location with the Adult Detention Center will fill most of the space. We also are looking at the facility as a possible future location for the City's Emergency Operations Center. We will report back to Council when the committee has completed its analysis.

**FISCAL IMPACT:** The proposed five year lease has two two-year renewal options and one one-year renewal option for a total of ten years. The 2900 Eisenhower Avenue lease is proposed at \$22.50 per square foot plus a \$2.40 per square foot for after-hours Heating Ventilating and Air

Conditioning. The City will pay any increases above base year 2004 for utilities, real estate taxes, and common area maintenance. The proposed parking lease provides 75 additional secure parking spaces. The base year parking cost is \$50 per space which increases \$6.00 per year.

The estimated FY 2004 cost for the 15,000 square feet of office space and 60 parking spaces is \$124,000 for the balance of FY 2004 and is included in the Approved FY 2004 Police Department Operating budget. The capital build-out costs for the leased space are estimated at \$450,000 including the furnishings, technology, security and communications costs, and are included as part of the Approved FY 2004 - FY 2009 CIP (Attachment 4).

**ATTACHMENTS:**

- Attachment 1. 2900 Eisenhower Avenue Lease
- Attachment 2. 2960 Eisenhower Avenue Parking Lease
- Attachment 3. Public Safety Center Background
- Attachment 4. FY 2004 Approved Capital Budget Project

**STAFF:**

- Michele Evans, Assistant City Manager
- Edward Mandley, Director of General Services
- Peter Geiling, Deputy Director of General Services
- Chief Charles Samarra, Police Department

*DEED OF LEASE AGREEMENT*

*BY AND BETWEEN*

*AvalonBay Communities, Inc.*

*AND*

*City of Alexandria*

*DATED*

*October 13, 2003*

**INDEX TO  
DEED OF LEASE AGREEMENT**

<b>SECTION 1. TERM.</b> .....	<b>3</b>
<b>SECTION 2. RENT</b> .....	<b>4</b>
<b>SECTION 3. USE OF PREMISES.</b> .....	<b>7</b>
<b>SECTION 4. INSURANCE AND INDEMNIFICATION.</b> .....	<b>8</b>
<b>SECTION 5. IMPROVEMENTS TO PREMISES.</b> .....	<b>10</b>
<b>SECTION 6. MAINTENANCE AND SERVICES.</b> .....	<b>11</b>
<b>SECTION 7. LANDLORD'S RIGHT OF ENTRY.</b> .....	<b>12</b>
<b>SECTION 8. FIRE AND OTHER CASUALTIES.</b> .....	<b>12</b>
<b>SECTION 9. CONDEMNATION.</b> .....	<b>13</b>
<b>SECTION 10. ASSIGNMENT AND SUBLETTING.</b> .....	<b>14</b>
<b>SECTION 11. RULES AND REGULATIONS.</b> .....	<b>15</b>
<b>SECTION 12. SUBORDINATION; ATTORNMENT AND NON-DISTURBANCE.</b> .....	<b>15</b>
<b>SECTION 13. DEFAULT.</b> .....	<b>15</b>
<b>SECTION 14. ESTOPPEL CERTIFICATE.</b> .....	<b>17</b>
<b>SECTION 15. QUIET ENJOYMENT.</b> .....	<b>18</b>
<b>SECTION 16. NOTICES.</b> .....	<b>18</b>
<b>SECTION 17. LANDLORD'S LIEN.</b> .....	<b>18</b>
<b>SECTION 18. GENERAL.</b> .....	<b>19</b>
<b>EXHIBIT A</b> .....	<b>22</b>
<b>EXHIBIT A-1</b> .....	<b>23</b>
<b>EXHIBIT B</b> .....	<b>24</b>
<b>EXHIBIT B-1</b> .....	<b>26</b>
<b>EXHIBIT C</b> .....	<b>27</b>
<b>EXHIBIT D</b> .....	<b>30</b>
<b>EXHIBIT E</b> .....	<b>31</b>

## DEED OF LEASE AGREEMENT

**THIS DEED OF LEASE AGREEMENT** (hereinafter referred to as "Lease"), made this \_\_\_\_ day of MONTH/YEAR, by and between **AvalonBay Communities, Inc.**, a corporation organized and existing under the laws of Maryland having an address at 2900 Eisenhower Avenue, Suite 300, Alexandria, Virginia 22314, (hereinafter referred to as the "Landlord"), and **City of Alexandria**, a TENANT CORPORATE IDENTITY organized and existing under the laws of TENANT IDENTITY STATE, having an address at TENANT ADDRESS (hereinafter referred to as the "Tenant").

**WITNESSETH, THAT FOR AND IN CONSIDERATION** of the mutual entry into this Lease by the parties hereto, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each party hereto, the Landlord hereby leases to the Tenant and the Tenant hereby leases from the Landlord all of that real property, situated and lying in Alexandria County, which consists of the space (containing approximately 15,000 square feet of floor area) outlined and attached hereto as Exhibit A (hereinafter referred to as the "Premises") and located in a building (hereinafter referred to as the "Building") at 2900 Eisenhower Avenue in Alexandria County, (the Premises, the remainder of the Building, such tract of land, other buildings thereon, and any other buildings or improvements to be constructed thereon being hereinafter referred to collectively as the "Property").

**SUBJECT TO THE OPERATION AND EFFECT** of any and all instruments and matters of record or in fact.

**UPON THE TERMS AND SUBJECT TO THE CONDITIONS** which are hereinafter set forth:

### SECTION 1. TERM.

**1.1. Length.** This Lease shall be for a term (hereinafter referred to as the "Term") (a) commencing on the day after the date on which the Landlord substantially completes the improvements to be made to the Premises under the provisions of Section 5 and tenders possession thereof to the Tenant (hereinafter referred to as the "Commencement Date", except that if the date of such commencement is hereafter advanced or postponed by written agreement of the parties hereto, the date to which it is advanced or postponed shall thereafter be the "Commencement Date" for all purposes of the provisions of this Lease), and (b) terminating at 12:01 A.M., local time, on the fifth (5<sup>th</sup>) anniversary of the first (1st) day of the first (1st) full calendar month during the Term (hereinafter referred to as the "Termination Date", except that if the date of such termination is hereafter advanced or postponed by written agreement of the parties hereto, the date to which it is advanced or postponed shall thereafter be the Termination Date).

**1.2. New Construction.** In the event this Lease pertains to a building to be constructed, the provisions of this Section 1.2 shall apply and the "Commencement Date" shall be the date upon which the buildings and other improvements erected and to be erected upon the Property shall have been substantially completed in accordance with the plans and specifications described on Exhibit B attached hereto and incorporated herein by reference. Landlord shall notify Tenant in writing as soon as Landlord deems said buildings and other improvements to be completed and ready for occupancy as aforesaid. In the event that said buildings and other improvements have not in fact been substantially completed as aforesaid, Tenant shall notify Landlord in writing of its objections. Landlord shall have a reasonable time after delivery of such notice in which to take such corrective actions as may be necessary, and shall notify Tenant in writing as soon as it deems such corrective action has been completed so that said buildings and other improvements are completed and ready for occupancy. Taking of possession by Tenant shall be deemed conclusively to establish that said buildings and other improvements have been completed in accordance with the plans and specifications and that the Premises are in good and satisfactory condition, as of when possession was so taken. Tenant acknowledges that no representations as to the repair of the Premises have been made by Landlord, unless such are expressly set forth in this Lease. After such "Commencement Date" Tenant shall, upon demand, execute and deliver to Landlord a letter of acceptance of delivery of the Premises. In the event of any dispute as to substantial completion or work performed or required to be performed by Landlord, the certificate of Landlord's architect or general contractor shall be conclusive.

**1.3. Surrender.** The Tenant shall at its expense, at the expiration of the Term or upon any earlier termination of this Lease, (a) promptly surrender to the Landlord possession of the Premises (including any fixtures or other improvements which, under the provisions of Section 5, are owned by the Landlord) in good order and repair (ordinary wear and tear excepted) and broom clean, (b) remove therefrom the Tenant's signs, goods and effects and any machinery, trade fixtures and equipment used in conducting the Tenant's trade or business and not owned by the Landlord, and (c) repair any damage to the Premises or the Building caused by such removal.

**1.4. Holding Over.**

1.4.1. If the Tenant continues to occupy the Premises after the expiration of the Term or any earlier termination of this Lease after obtaining the Landlord's express, written consent thereto,

(a) such occupancy shall (unless the parties hereto otherwise agree in writing) be deemed to be under a month-to-month tenancy, which shall continue until either party hereto notifies the other in writing, by at least thirty (30) days before the end of any calendar month, that the notifying party elects to terminate such tenancy at the end of such calendar month, in which event such tenancy shall so terminate;

(b) anything contained in the foregoing provisions of this Section to the contrary notwithstanding, the rental payable for each such monthly period shall equal one-twelfth (1/12) of the Base Rent and the Additional Rent payable under the provisions of subsection 2.2 (calculated in accordance with such provisions of subsection 2.2 as if this Lease had been renewed for a period of twelve (12) full calendar months after such expiration or earlier termination of the Term or such renewal); and

(c) such month-to-month tenancy shall be upon the same terms and subject to the same conditions as those set forth in the provisions of this Lease; provided, that if the Landlord gives the Tenant, by at least thirty (30) days before the end of any calendar month during such month-to-month tenancy, written notice that such terms and conditions (including any thereof relating to the amount or payment of Rent) shall, after such month, be modified in any manner specified in such notice, then such tenancy shall, after such month, be upon the said terms and subject to the said conditions, as so modified.

1.4.2. If the Tenant continues to occupy the Premises after the expiration of the Term or any earlier termination of this Lease without obtaining the Landlord's express, written consent thereto, such occupancy shall be on the same terms and subject to the same conditions as those set forth in the provisions of paragraph 1.4.1., except that, anything contained in the provisions of this Lease to the contrary notwithstanding, (a) the rental payable during the period of such occupancy shall equal two hundred percent (200%) of the rental which would be payable during such period under the provisions of subparagraph 1.4.1.(b), had the Tenant obtained the Landlord's express, written consent to such occupancy, as aforesaid, and (b) nothing in the provisions of paragraph 1.4.1. or any other provision of this Lease shall be deemed in any way to alter or impair the Landlord's right immediately to evict the Tenant or exercise its other rights and remedies under the provisions of this Lease or applicable law on account of the Tenant's occupancy of the Premises without having obtained such consent.

**SECTION 2. RENT**

**2.1. Amount.** As rent for the Premises (all of which is hereinafter referred to collectively as "Rent"), the Tenant shall pay to the Landlord in advance, without demand, deduction or set off, for the entire Term hereof, all of the following:

2.1.1. Base Rent. In consideration of the Premises, Tenant covenants and agrees to pay to Landlord a Base Rent each Lease Year in the amount set forth in Exhibit D attached hereto and made a part hereof. This Base Rent shall be paid in equal monthly installments on the first (1st) day of each month, in advance, without demand, notice, offset or deduction, at such place as shall be designated by Landlord, beginning on the Commencement Date. If the Commencement Date is on a date other than the first (1st) day of the month, then the first rent payment shall include a pro rata

portion of such Base Rent and all other payments provided for under this Lease for any part of the month prior to the first (1st) full month of the lease term.

2.1.2. Lease Year. As used in the provisions of this Lease, the term "Lease Year" means (a) the period commencing on the Commencement Date and terminating on the first (1st) anniversary of the last day of the calendar month containing the Commencement Date, and (b) each successive period of twelve (12) calendar months thereafter during the Term.

2.1.3. Additional Rent. Additional rent (hereinafter referred to as "Additional Rent") in the amount of any payment referred to as such in any provision of this Lease which accrues while this Lease is in effect. Any Additional Rent shall be payable to Landlord within thirty (30) days of demand except as otherwise provided for herein.

**2.1.4. Tenant Electric. Tenant shall pay to Landlord, as Additional Rent, the cost of the electric incurred on the floor of the Building, including reasonable administration costs incurred therewith ("Tenant Electric"). Landlord reserves the right to require Tenant to contract directly with the utility provider and make payment of such expense directly to the utility service provider, if possible.**

## **2.2. Annual Operating Costs.**

2.2.1. Definitions. As used herein, the term "Annual Operating Costs" means the actual costs incurred by the Landlord in operating and maintaining the Property during each calendar year of the Term. Such costs shall include, by way of example rather than of limitation, (i) real property, front-foot benefit, metropolitan district and other similar taxes or public or private assessments (whether regular or special) levied against any or all of the Property as applicable; (ii) charges or fees for, and taxes on, the furnishing of water, sewer service, gas, fuel, electricity or other utility services to the Property; (iii) costs of providing elevator, janitorial and trash removal service, and of maintaining grounds, common areas and mechanical systems of buildings; (iv) all other costs of maintaining, repairing or replacing any or all of the Building or the rest of the Property including a reserve for asphalt, roof repairs and repainting; (v) charges or fees for any necessary governmental permits; (vi) management fees, overhead and expenses equal to five percent (5%) of the Rent for each Lease Year; (vii) premiums for hazard, liability, workmens' compensation or similar insurance upon any or all of the Property and any deductibles applicable therefor; (viii) costs arising under service contracts with independent contractors; (ix) costs of any services not provided by the Landlord to the Property on the date hereof but hereafter provided by the Landlord in its prudent management of the Property; and (x) the costs of any other items which, under generally accepted accounting principles consistently applied from year to year with respect to the Property, constitute operating or maintenance costs attributable to any or all of the Property and (xi) the cost of tax appeals to the extent that such cost does not exceed the amount of savings realized in each calendar year. Such costs shall not include (i) the expense of principal and interest payments made by the Landlord pursuant to the provisions of any mortgage or deed of trust covering the Property; (ii) any deduction for depreciation of the Property taken on the Landlord's income tax returns; or (iii) the cost of capital improvements made to the Property if and to the extent not taken as a deduction on the Landlord's federal income tax return.

2.2.2. Operating Costs Escalation. Tenant agrees to pay to Landlord, as Additional Rent, Tenant's Pro-Rata Share (as hereinafter defined) of any increase in Annual Operating Costs for any calendar year above those Annual Operating Costs incurred during calendar year **2004** (Tenant's "Operating Costs Escalation"). Tenant's "Pro-Rata Share" shall be equal to a fraction, the numerator of which shall be the square feet of the Premises, and, except as otherwise provided hereunder, the denominator of which shall be the total leasable square feet in the Building and or the Property. As of the date of execution of this Lease, Tenant's Pro-Rata share is **twenty five percent (25%)** of the Building and **twenty five percent (25%)** of the Property.

2.2.3. Landlord's right to estimate. Anything contained in the foregoing provisions of this subsection to the contrary notwithstanding, the Landlord may, at its discretion, (a) make from time to time during the Term a reasonable estimate of the Tenant's Operating Costs Escalation which may become due under such provisions for any calendar year, (b) require the Tenant to pay to the Landlord for each calendar month during such year one twelfth (1/12) of such estimate as Additional Rent, at the time and in the manner that the Tenant is required hereunder to pay the monthly installment of the Base Rent for such month, and (c) at the Landlord's reasonable discretion, increase

or decrease from time to time during such calendar year the amount initially so estimated for such calendar year, all by giving the Tenant written notice thereof, accompanied by a schedule setting forth in reasonable detail the expenses comprising the Annual Operating Costs, as so estimated.

2.2.4. Computation. After the end of each calendar year during the Term, the Landlord shall compute the total of the Annual Operating Costs incurred during such calendar year, and shall allocate them in accordance with each tenant's Pro-Rata share of the Property; provided, that anything contained in the foregoing provisions of this subsection 2.2 to the contrary notwithstanding, wherever the Tenant and/or any other tenant of space within the Property has agreed in its lease or otherwise to provide any item of such services partially or entirely at its own expense, or wherever in the Landlord's judgment any such significant item of expense is not incurred with respect to or for the benefit of all of the net rentable space within the Property, in allocating the Annual Operating Costs pursuant to the foregoing provisions of this subsection, the Landlord shall make an appropriate adjustment, using generally accepted accounting principles, as aforesaid, so as to avoid allocating to the Tenant or to such other tenant (as the case may be) those Annual Operating Costs covering such services already being provided by the Tenant or by such other tenant at its own expense, or to avoid allocating to all of the net rentable space within the Property those Annual Operating Costs incurred only with respect to a portion thereof, as aforesaid.

2.2.5. Payment of Operating Costs Escalation. Within one hundred twenty (120) days after the expiration of each calendar year, Landlord shall submit to Tenant a statement showing the actual Annual Operating Costs for such preceding calendar year and Tenant's Pro-Rata share thereof. If such statement shows that Tenant's Pro-Rata share of the actual Annual Operating Costs for such preceding year exceeded Tenant's monthly payments of Operating Costs Escalation for the preceding Calendar Year, then Tenant shall pay the total amount of such deficiency to Landlord with the next payment of Base Rent due hereunder after receipt of such statement.

2.2.6. Proration. If only part of any calendar year falls within the Term, the amount computed as Additional Rent for such calendar year under the foregoing provisions of this subsection shall be prorated in proportion to the portion of such calendar year falling within the Term (but the expiration of the Term before the end of a calendar year shall not impair the Tenant's obligation hereunder to pay such prorated portion of such Additional Rent for that portion of such calendar year falling within the Term, which shall be paid on demand, as aforesaid).

### **2.3. When due and payable.**

2.3.1 The Base Rent for any Lease Year shall be due and payable in twelve (12) consecutive, equal monthly installments, in advance, on the first (1st) day of each calendar month during such Lease Year; provided, that the first monthly installment of the Base Rent will be due and payable upon lease execution.

2.3.2. Any Additional Rent accruing to the Landlord under any provision of this Lease shall, except as is otherwise set forth herein, be due and payable when the installment of the Base Rent next falling due after such Additional Rent accrues and becomes due and payable, unless the Landlord makes written demand upon the Tenant for payment thereof at any earlier time, in which event such Additional Rent shall be due and payable at such time.

2.3.3. Each such payment shall be made promptly when due, without any deduction or set off whatsoever, and without demand, failing which the Tenant shall pay to the Landlord as Additional Rent, a late charge equaling twenty percent (20%) of such payment.

**2.4. Where payable.** The Tenant shall pay the Rent, in lawful currency of the United States of America, to the Landlord by delivering or mailing it (postage prepaid) to the Landlord's address which is set forth in Section 16, or to such other address or in such other manner as the Landlord from time to time specifies by written notice to the Tenant. Any payment made by the Tenant to the Landlord on account of Rent may be credited by the Landlord to the payment of any Rent then past due before being credited to Rent currently falling due. Any such payment which is less than the amount of Rent then due shall constitute a payment made on account thereof, the parties hereto hereby agreeing that the Landlord's acceptance of such payment (whether or not with or accompanied by an endorsement or statement that such lesser amount or the Landlord's acceptance thereof constitutes payment in full of the amount of Rent then due) shall not alter or impair the Landlord's rights hereunder to be paid all of such amount then due, or in any other respect.

**2.5. Tax on Lease.** If federal, state or local law now or hereafter imposes any tax, assessment, levy or other charge (other than any income, inheritance or estate tax) directly or indirectly upon (a) the Landlord with respect to this Lease or the value thereof, (b) the Tenant's use or occupancy of the Premises, (c) the Base Rent, Additional Rent or any other sum payable under this Lease, or (d) this transaction, then (except if and to the extent that such tax, assessment, levy or other charge is included in the Annual Operating Costs) the Tenant shall pay the amount thereof as Additional Rent to the Landlord upon demand, unless the Tenant is prohibited by law from doing so, in which event the Landlord may, at its election, terminate this Lease by giving written notice thereof to the Tenant.

## **2.6. Security deposit.**

2.6.1. Simultaneously with the entry into this Lease by the parties hereto, the Tenant shall deposit with the Landlord the sum of Zero Dollars (\$0.00), which shall be retained by the Landlord as security for the Tenant's payment of the Rent and performance of all of its other obligations under the provisions of this Lease.

2.6.2. On the occurrence of an Event of Default, the Landlord shall be entitled, at its sole discretion,

(a) to apply any or all of such sum in payment of (i) any Rent then due and unpaid, (ii) any expense incurred by the Landlord in curing any such Event of Default, and/or (iii) any damages incurred by the Landlord by reason of such Event of Default (including, by way of example rather than of limitation, that of reasonable attorneys' fees); and/or

(b) to retain any or all of such sum to reimburse for any or all damages suffered by the Landlord by reason of such Event of Default. If at any time Landlord draws upon the security deposit in accordance with this section Tenant upon demand agrees to immediately pay to Landlord an amount sufficient to return the security deposit to the amount stated above.

2.6.3. On the termination of this Lease, any of such sum which is not so applied or retained shall be returned to the Tenant within forty-five (45) days of the Lease termination date.

2.6.4. Such sum shall not bear interest while being held by the Landlord hereunder.

2.6.5. No Mortgagee (as that term is defined by the provisions of Section 12) or purchaser of any or all of the Property at any foreclosure proceeding brought under the provisions of any Mortgage (as that term is defined by the provisions of Section 12) shall (regardless of whether the Lease is at the time in question subordinate to the lien of any Mortgage under the provisions of Section 12 or otherwise) be liable to the Tenant or any other person for any or all of such sum (or any other or additional security deposit or other payment made by the Tenant under the provisions of this Lease), unless both (a) the Landlord has actually delivered it in cash to such Mortgagee or purchaser, as the case may be, and (b) it has been specifically identified, and accepted by the Lender or such purchaser, as the case may be, as such and for such purpose.

## **SECTION 3. USE OF PREMISES.**

3.1. The Tenant shall, continuously throughout the Term occupy and use the Premises for and only for general office purposes. **Notwithstanding the above, Landlord acknowledges that Tenant will operate central command of their field operations. Furthermore, it is understood that, from time to time, juveniles, who are picked up for minor infractions, such as shoplifting, will be held in the space until they can be handed over to the custody of their parents. In no case, will the Premises be used for the detention, other than as mentioned above, arrest, or processing of suspects, prisoners or other persons, including magisterial activities such as the booking or release of prisoners.**

3.2. In its use of the Premises and the remainder of the Property, the Tenant shall not violate any applicable law, ordinance or regulation.

## **3.3. License.**

3.3.1 The Landlord hereby grants to the Tenant a non-exclusive license to use (and to permit its officers, directors, agents, employees and invitees to use in the course of conducting business at the Premises),

(a) any and all elevators, common stairways, lobbies, common hallways and other portions of the Building which, by their nature, are manifestly designed and intended for common use by the occupants of the Building, for pedestrian ingress and egress to and from the Premises and for any other such manifest purposes; and

(b) any and all portions of the said tract of land on which the Building is located (excluding that portion thereof which is improved by any other building) which, by their nature, are manifestly designed and intended for common use by the occupants of the Building and of any other improvements on such tract, for pedestrian ingress and egress to and from the Premises and for any other such manifest purposes; and

(c) any and all portions of such tract of land as from time to time are designated (by striping or otherwise) by the Landlord for such purpose, for the parking of automobiles.

3.3.2. Such license shall be exercised in common with the exercise thereof by the Landlord, any tenant or owner of the building or any other building located on such tract, and their respective officers, directors, agents, employees and invitees, and in accordance with the Rules and Regulations promulgated from time to time pursuant to the provisions of Section 11.

**3.4. Signs.** The Tenant shall have the right to erect from time to time within the Premises such signs as it desires, in accordance with applicable law, except that the Tenant shall not erect any sign within the Premises in any place where such sign is visible primarily from the exterior of the Premises, unless the Landlord has given its express, written consent thereto.

**3.5. Relocation of Tenant.** The Landlord shall have the right from time to time during the Term, at the Landlord's expense, to relocate the Premises from their present location within the Building to another location within the Building having at least the same floor area as that of the Premises as shown on Exhibit A, provided that the Landlord gives the Tenant written notice of the Landlord's intention to do so at least thirty (30) days before undertaking such relocation. The Landlord shall, in such event, at the Landlord's expense, install within the Premises as so relocated improvements of the same quality and quantity as those theretofore made by the Tenant or the Landlord to the Premises before such relocation, and on the completion of such installation shall cause the Tenant's machinery, furniture, fixtures and equipment within the Premises to be moved to the Premises as so relocated. Upon the completion of such relocation, this Lease shall automatically cease to cover the space constituting the Premises immediately before such relocation, and shall automatically thereafter cover the space to which the Premises have been relocated, as aforesaid, all on the same terms and subject to the same conditions as those set forth in the provisions of this Lease as in effect immediately before such relocation, and all without the necessity of further action by either party hereto; provided, that each party hereto shall, promptly upon its receipt of a written request therefor from the other, enter into such amendment of this Lease as the requesting party considers reasonably necessary to confirm such relocation.

**3.6. Parking. Landlord shall endeavor to provide parking at the Building, as well as the parking garage that is directly adjacent to the Building, free of charge, at a ratio of four (4) parking spaces per thousand square feet of rentable area during the initial Lease Term. In the event Tenant elects to discontinue its use of any of the parking spaces, Landlord shall be free and clear to lease such spaces to another tenant or third party and Tenant's right to said space(s) shall be null and void. Such spaces shall be solely for use by Tenant and its employees for the parking of automobiles and shall be subject to the terms and conditions set forth in such monthly parking contracts. Tenant acknowledges that Landlord does not assume any responsibility for any damage or loss to any automobiles parked in the garage, or to any personal property located therein, or for any injury sustained by any person in or about the garage.**

#### SECTION 4. INSURANCE AND INDEMNIFICATION.

##### 4.1. Increase in risk.

4.1.1. The Tenant shall not do or permit to be done any act or thing as a result of which either (a) any policy of insurance of any kind covering (i) any or all of the Property or (ii) any liability of the Landlord in connection therewith may become void or suspended, or (b) the insurance risk under any such policy would (in the opinion of the insurer thereunder) be made greater; and

4.1.2. shall pay as Additional Rent the amount of any increase in any premium for such insurance resulting from any breach of such covenant.

#### **4.2. Insurance to be maintained by Tenant.**

4.2.1. The Tenant shall maintain at its expense, throughout the Term, insurance against loss or liability in connection with bodily injury, death, property damage or destruction, occurring within the Premises or arising out of the use thereof by the Tenant or its agents, employees, officers or invitees, visitors and guests, under one or more policies of general public liability insurance having such limits as to each as are reasonably required by the Landlord from time to time, but in any event of not less than a total of Two Million Dollars (\$2,000,000.00) for bodily injury to or death of all persons or property damage or destruction in any one occurrence, and (b) Fifty Thousand Dollars (\$50,000.00) Fire Legal Liability. Each such policy shall (a) name as the insured thereunder the Tenant and the Landlord and Landlord's Agent (and, at the Landlord's request, any Mortgagee) as additional insureds, (b) by its terms, not be cancelable without at least thirty (30) days' prior written notice to the Landlord (and, at the Landlord's request, any such Mortgagee), and (c) be issued by any insurer of recognized responsibility licensed to issue such policy in Virginia.

4.2.2. (a) At least five (5) days before the Commencement Date, the Tenant shall deliver to the Landlord a certificate of each such policy, and (b) at least thirty (30) days before any such policy expires, the Tenant shall deliver to the Landlord an original or a signed duplicate copy of a replacement policy therefor; provided, that so long as such insurance is otherwise in accordance with the provisions of this Section, the Tenant may carry any such insurance under a blanket policy covering the Premises for the risks and in the minimum amounts specified in paragraph 4.2.1, in which event the Tenant shall deliver to the Landlord two (2) insurer's certificates therefor in lieu of an original or a copy thereof, as aforesaid.

**4.3. Insurance to be maintained by Landlord.** The Landlord shall maintain throughout the Term all-risk insurance upon the Building, including as needed but not limited to Personal Property, Loss of Rents, Glass, Boiler and Machinery, General Liability and Umbrella Liability in at least such amounts and having at least such forms of coverage as are required from time to time by the Landlord's lender. The cost of the premiums for such insurance and of each endorsement thereto and of any applicable deductibles therefor shall be deemed, for purposes of the provisions of Section 2, to be a cost of operating and maintaining the Property.

**4.4. Waiver of subrogation.** If either party hereto is paid any proceeds under any policy of insurance naming such party as an insured, on account of any loss, damage or liability, then such party hereby releases the other party hereto, to and only to the extent of the amount of such proceeds, from any and all liability for such loss, damage or liability, notwithstanding that such loss, damage or liability may arise out of the negligent or intentionally tortious act or omission of the other party, its agents or employees; provided, that such release shall be effective only as to a loss, damage or liability occurring while the appropriate policy of insurance of the releasing party provides that such release shall not impair the effectiveness of such policy or the insured's ability to recover thereunder. Each party hereto shall use reasonable efforts to have a clause to such effect included in its said policies, and shall promptly notify the other in writing if such clause cannot be included in any such policy.

**4.5. Liability of parties.** Except if and to the extent that such party is released from liability to the other party hereto pursuant to the provision of subsection 4.4.

4.5.1. the Landlord (a) shall be responsible for, and shall indemnify and hold harmless the Tenant against and from any and all liability arising out of, any injury to or death of any person or damage to any property, occurring anywhere upon the Property, if, only if and to the extent that such injury, death or damage is proximately caused by the grossly negligent or intentionally tortious act or omission of the Landlord or its agents, officers or employees, but (b) shall not be

responsible for or be obligated to indemnify or hold harmless the Tenant against or from any liability for any such injury, death or damage occurring anywhere upon the Property (including the Premises), (i) by reason of the Tenant's occupancy or use of the Premises or any other portion of the Property, or (ii) because of fire, windstorm, act of God or other cause unless solely caused by such gross negligence or intentionally tortious act or omission of the Landlord, as aforesaid; and

4.5.2. subject to the operation and effect of the foregoing provisions of this subsection, the Tenant shall be responsible for, and shall defend, indemnify and hold harmless the Landlord against and from, any and all liability or claim of liability (including without limitation reasonable attorney's fees) arising out of any injury to or death of any person or damage to any property, occurring within the Premises, or if caused by Tenant, its employees, agents or invitees, on the Property.

## SECTION 5. IMPROVEMENTS TO PREMISES.

### 5.1. By Landlord.

5.1.1. The Landlord shall make the improvements to the Premises which are set forth in the plans and specifications attached hereto as Exhibit B.

5.1.2. **Tenant accepts the Premises in its absolute "As-Is" condition. The above notwithstanding, Landlord shall provide an allowance equal to Fifteen Dollars (\$15.00) per square foot (the "Allowance") which shall be applied toward the cost of Tenant's improvements within the Premises. Specifically, the Allowance shall be applied toward the "hard" and "soft" costs construction of the Premises, including, but not limited to, architectural and engineering fees, paint, carpet, and permit fees. The improvements shall be made by Landlord's contractor in accordance with plans and specifications agreed to by Tenant and approved by Landlord. The cost of any additional improvements which exceed the Allowance shall be borne solely by Tenant and shall be promptly paid by Tenant to Landlord; failure to pay any such amount shall be deemed an Event of Default in the payment of Additional Rent under the Lease. The cost of the improvements which exceed the Allowance, as well as the costs of other services required as a result of such improvements, shall be paid to Landlord in accordance with the following schedule: (i) Seventy Five percent (75%) prior to the commencement of said improvements and (ii) Twenty-Five percent (25%) upon substantial completion of the improvements to be rendered. There shall be no additional fee or mark-up for Landlord's supervision of the improvements.**

5.1.3. the Landlord shall use its reasonable efforts to complete such improvements by the date on which the Tenant is entitled to occupy the Premises pursuant to this Lease, but shall have no liability to the Tenant hereunder if prevented from doing so by reason of any (a) strike, lock-out or other labor troubles, (b) governmental restrictions or limitations, (c) failure or shortage of electrical power, gas, water, fuel oil, or other utility or service, (d) riot, war, insurrection or other national or local emergency (e) accident, flood, fire or other casualty, (f) adverse weather condition, (g) other act of God, (h) inability to obtain a building permit or a certificate of occupancy, or (i) shortage of materials or labor, or (j) other cause similar or dissimilar to any of the foregoing and beyond the Landlord's reasonable control. In such event, (a) the Commencement Date shall be postponed for a period equaling the length of such delay, (b) the Termination Date shall be determined pursuant to the provisions of subsection 1.1 by reference to the Commencement Date as so postponed, and © the Tenant shall accept possession of the Premises within three (3) days after such completion.

5.2. **By Tenant.** The Tenant shall not make any alteration, addition or improvement to the Premises without first obtaining the Landlord's written consent thereto. If the Landlord consents to any such proposed alteration, addition or improvement, it shall be made at the Tenant's sole expense (and the Tenant shall hold the Landlord harmless from any cost incurred on account thereof), and at such time and in such manner as not unreasonably to interfere with the use and enjoyment of the remainder of the Property by any tenant thereof or other person.

5.3. **Mechanics' lien.** The Tenant shall (a) immediately after it is filed or claimed, bond or have released any mechanics', materialman's or other lien filed or claimed against any or all of the Premises, the Property, or any other property owned or leased by the Landlord, by reason of labor or materials provided for the Tenant or any of its contractors or subcontractors (other than labor or

materials provided by the Landlord pursuant to the provisions of subsection 5.1), or otherwise arising out of the Tenant's use or occupancy of the Premises or any other portion of the Property, and (b) defend, indemnify and hold harmless the Landlord against and from any and all liability, claim of liability or expense (including, by way of example rather than of limitation, that of reasonable attorneys' fees) incurred by the Landlord on account of any such lien or claim.

**5.4. Fixtures.** Any and all improvements, repairs, alterations and all other property attached to, used in connection with or otherwise installed within the Premises by the Landlord or the Tenant shall, immediately on the completion of their installation, become the Landlord's property without payment therefor by the Landlord, except that any machinery, equipment or fixtures installed by the Tenant and used in the conduct of the Tenant's trade or business (rather than to service the Premises or any of the remainder of the Building or the Property generally) shall remain the Tenant's property.

## **SECTION 6. MAINTENANCE AND SERVICES.**

### **6.1. Ordinary services.**

6.1.1. The Landlord shall provide the following services to or for the benefit of the Premises:

(a) heating and air-conditioning (during respective seasons of the year in which they are necessary) for the comfortable use and occupancy of the Premises, electricity and water suitable for the use of the Premises in accordance with the provisions of Section 3, and automatic elevator service within the Building, all between 8 o'clock a.m. and 6 o'clock p.m., Monday through Friday (except for New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day), of each week during the Term; and between 9 o'clock A.M. and 1 o'clock P.M., Saturday's of each week during the Term.

~~(b) janitorial service and trash removal service after 6 o'clock p.m., Monday through Friday (except for New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day), of each week during the Term.~~

6.1.2. Such services shall be furnished at the Landlord's expense (subject to the operation and effect of the provisions of subsection 2.2).

**6.1.3. Janitorial/Trash Removal. Anything contained herein to the contrary notwithstanding, Tenant, at its sole cost and expense, shall contract directly for janitorial service and trash removal within the Premises. All vendors shall be subject to Landlord's prior written approval and shall be subject to the guidelines for performing such work within the Building as set forth by Landlord from time to time. Such services must be performed after six o'clock p.m., Monday through Friday, of each week during the Term.**

### **6.2. Extraordinary services.**

6.2.1. The Landlord shall not be obligated to provide to or for the benefit of the Premises any of the services referred to in the provisions of subsection 6.1 other than during the hours referred to therein. If the Landlord elects in its sole discretion to provide such services other than during such hours, and if the Tenant utilizes any of them, the Tenant shall pay to the Landlord as Additional Rent the amount from time to time charged by the Landlord therefor, as set forth on the written schedule of such charges most recently provided by the Landlord to the Tenant.

6.2.2. The Tenant shall not, without first obtaining the Landlord's written consent thereto, install within the Premises any electrical machinery, appliances or equipment (including, by way of example rather than of limitation, any electrical heating, cooking, water-heating or refrigeration equipment, kitchen equipment, photocopying equipment, electronic data processing machinery, reproduction equipment or punch-card machinery) which either (a) uses electrical current in excess of 10 amperes at 110 volts or (b) in any way increases the amount of electricity consumed upon the Premises beyond those wattages specified herein below, and shall pay periodically as Additional Rent the additional expense incurred by the Landlord as a result thereof, including that resulting from any installation of such equipment. Without limiting the generality of the foregoing provisions of this paragraph, the Landlord shall have the right from time to time, using

established calculation methods and/or one or more temporary or permanent sub-meters or other devices, to measure the consumption of electricity upon the Premises. The cost of such calculations and/or measuring shall be borne by the Landlord unless such measuring indicates that the electricity being consumed upon the Premises exceeds (a) for lighting, one (1) watt per square foot of floor area within the Premises, or (b) for other electrical consumption, two (2) watts per square foot of floor area within the Premises, in which event the Tenant shall reimburse the Landlord for the cost of such calculations and/or measuring, and shall in addition pay to the Landlord monthly, as Additional Rent, the cost incurred by the Landlord thereafter in furnishing such additional electricity to the Premises, which cost shall be estimated on a monthly basis by the Landlord using its reasonable discretion, and shall be adjusted at the end of each calendar year to reflect the actual cost of such excess electricity incurred by the Landlord during such calendar year.

**6.3. Interruption.** The Landlord shall have no liability to the Tenant for any compensation or reduction of Rent on account of any failure, modification or interruption of any service which either (a) arises out of any of the causes enumerated in the provisions of subsection 5.1, or (b) is required by applicable law (including, by way of example rather than of limitation, any federal law or regulation relating to the furnishing or consumption of energy or the temperature of buildings).

**6.4. Maintenance by Tenant.** The Tenant shall maintain the nonstructural parts of the interior of the Premises in good repair and condition, ordinary wear and tear excepted.

**6.5. Maintenance by Landlord.** The Landlord shall furnish, supply and maintain in good order and repair (a) the roof, structure and remainder of the exterior of the Building, (b) any and all hallways, stairways, lobbies, elevators, heating and air-conditioning facilities, electrical, sanitary sewer and water lines and facilities, restroom facilities, grounds, sidewalks and parking areas (including the removal of snow from such sidewalks and parking areas), and other common areas, all if located within the Building or the rest of the Property but not within the Premises, all at the Landlord's expense except as is set forth in the provisions of Section 2 or any other provision of this Lease.

## **SECTION 7. LANDLORD'S RIGHT OF ENTRY.**

The Landlord and its agents shall be entitled to enter the Premises at any reasonable time (a) to inspect the Premises, (b) to exhibit the Premises to any existing or prospective purchaser, tenant or Mortgagee thereof, (c) to make any alteration, improvement or repair to the Building or the Premises, or (d) for any other purpose relating to the operation or maintenance of the Property; provided, that the Landlord shall (a) (unless doing so is impractical or unreasonable because of emergency) give the Tenant at least twenty-four (24) hours' prior notice of its intention to enter the Premises, and (b) use reasonable efforts to avoid thereby interfering more than is reasonably necessary with the Tenant's use and enjoyment thereof.

## **SECTION 8. FIRE AND OTHER CASUALTIES.**

**8.1. General.** Subject to Section 8.2 if the Premises are damaged by fire or other casualty during the term,

8.1.1. the Landlord shall, with reasonable promptness (taking into account the time required by the Landlord to effect a settlement with, and to procure any insurance proceeds from, any insurer against such casualty, but in any event within two hundred twenty (220) days after the date of such casualty), substantially restore Premises to their condition immediately before such casualty, and may temporarily enter and possess any or all of the Premises for such purpose (provided, that the Landlord shall not be obligated to repair, restore or replace any fixture, improvement, alteration, furniture or other property owned, installed or made by the Tenant), but

8.1.2. the times for commencement and completion of any such restoration shall be extended for the period of any delay occasioned by the Landlord in doing so arising out of any of the causes enumerated in the provisions of subsection 5.1. If the Landlord undertakes to restore the Premises and such restoration is not accomplished within the said period of two hundred twenty (220) days plus the period of any extension thereof, as aforesaid, the Tenant may terminate this Lease by giving written notice thereof to the Landlord within thirty (30) days after the expiration of such period, as so extended; and

8.1.3. so long as the Tenant is deprived of the use of any or all of the Premises on account of such casualty, the Base Rent and any Additional Rent payable under the provisions of subsection 2.2 shall be abated in proportion to the number of square feet of the Premises rendered substantially unfit for occupancy by such casualty, unless, because of any such damage, the undamaged portion of the Premises is made materially unsuitable for use by the Tenant for the purposes set forth in the provisions of Section 3, in which event the Base Rent and any such Additional Rent shall be abated entirely during such period of deprivation.

**8.2. Substantial destruction.** Anything contained in the foregoing provisions of this Section to the contrary notwithstanding,

8.2.1. if during the Term the Building is so damaged by fire or other casualty that (a) either the Premises or (whether or not the Premises are damaged) the Building is rendered substantially unfit for occupancy, as reasonably determined by the Landlord, or (b) the Building is damaged to the extent that the Landlord reasonably elects to demolish the Building, or if any Mortgagee requires that any or all of such insurance proceeds be used to retire any or all of the debt secured by its Mortgage, then in any such case the Landlord may elect to terminate this Lease as of the date of such casualty, as of the date of such casualty by giving written notice thereof to the Tenant within thirty (30) days as of the date of such casualty; and

8.2.2. in such event, (a) the Tenant shall pay to the Landlord the Base Rent and any Additional Rent payable by the Tenant hereunder and accrued through the date of such termination, (b) the Landlord shall repay to the Tenant any and all prepaid Rent for periods beyond such termination, and (c) the Landlord may enter upon and repossess the Premises without further notice.

**8.3. Tenant's negligence.** Anything contained in any provision of this Lease to the contrary notwithstanding, if any such damage to the Premises, the Building or both are caused by or result from the negligent or intentionally tortious act or omission of the Tenant, those claiming under the Tenant or any of their respective officers, employees, agents or invitees,

8.3.1. the Rent shall not be suspended or apportioned as aforesaid, and

8.3.2. except if and to the extent that the Tenant is released from liability therefor pursuant to the provisions of subsection 4.4, the Tenant shall pay to the Landlord upon demand, as Additional Rent, the cost of (a) any repairs and restoration made or to be made as a result of such damage, or (b) (if the Landlord elects not to restore the Building) any damage or loss which the Landlord incurs as a result of such damage.

## **SECTION 9. CONDEMNATION.**

### **9.1. Right to award.**

9.1.1. If any or all of the Premises are taken by the exercise of any power of eminent domain or are conveyed to or at the direction of any governmental entity under a threat of any such taking (each of which is hereinafter referred to as a "Condemnation"), the Landlord shall be entitled to collect from the condemning authority thereunder the entire amount of any award made in any such proceeding or as consideration for such conveyance, without deduction therefrom for any leasehold or other estate held by the Tenant under this Lease.

9.1.2. The Tenant hereby (a) assigns to the Landlord all of the Tenant's right, title and interest, if any, in and to any such award; (b) waives any right which it may otherwise have in connection with such Condemnation, against the Landlord or such condemning authority, to any payment for (i) the value of the then-unexpired portion of the Term, (ii) leasehold damages, and (iii) any damage to or diminution of the value of the Tenant's leasehold interest hereunder or any portion of the Premises not covered by such Condemnation; and (c) agrees to execute any and all further documents which may be required to facilitate the Landlord's collection of any and all such awards.

9.1.3. Subject to the operation and effect of the foregoing provisions of this Section, the Tenant may seek, in a separate proceeding, a separate award on account of any damages or costs incurred by the Tenant as a result of such Condemnation, so long as such separate award in no way diminishes any award or payment which the Landlord would otherwise receive as a result of such Condemnation.

## **9.2. Effect of Condemnation.**

9.2.1. If (a) all of the Premises are covered by a Condemnation, or (b) any part of the Premises is covered by a Condemnation and the remainder thereof is insufficient for the reasonable operation therein of the Tenant's business, or (c) any of the Building is covered by a Condemnation and, in the Landlord's reasonable opinion, it would be impractical to restore the remainder thereof, or (d) any of the rest of the Property is covered by a Condemnation and, in the Landlord's reasonable opinion, it would be impractical to continue to operate the remainder of the Property thereafter, then, in any such event, the Term shall terminate on the date on which possession of so much of the Premises, the Building or the rest of the Property, as the case may be, as is covered by such Condemnation is taken by the condemning authority thereunder, and all Rent (including, by way of example rather than of limitation, any Additional Rent payable under the provision of subsection 2.2), taxes and other charges payable hereunder shall be apportioned and paid to such date.

9.2.2. If there is a Condemnation and the Term does not terminate pursuant to the foregoing provision of this subsection, the operation and effect of this Lease shall be unaffected by such Condemnation, except that the Base Rent shall be reduced in proportion to the square footage of floor area, if any, of the Premises covered by such Condemnation.

9.3. If there is a Condemnation, the Landlord shall have no liability to the Tenant on account of any (a) interruption of the Tenant's business upon the Premises, (b) diminution in the Tenant's ability to use the Premises, or (c) other injury or damage sustained by the Tenant as a result of such Condemnation.

9.4. Except for any separate proceeding brought by the Tenant under the provisions of paragraph 9.1.3., the Landlord shall be entitled to conduct any such condemnation proceeding and any settlement thereof free of interference from the Tenant, and the Tenant hereby waives any right which it otherwise has to participate therein.

## **SECTION 10. ASSIGNMENT AND SUBLETTING.**

10.1. The Tenant hereby acknowledges that the Landlord has entered into this Lease because of the Tenant's financial strength, goodwill, ability and expertise and that, accordingly, this Lease is one which is personal to the Tenant, and agrees for itself and its successors and assigns in interest hereunder that it will not (a) assign any of its rights under this Lease, or (b) make or permit any total or partial sale, lease, sublease, assignment, conveyance, license, mortgage, pledge, encumbrance or other transfer of any or all of the Premises or the occupancy or use thereof (each of which is hereinafter referred to as a "Transfer"), without first obtaining the Landlord's written consent thereto (which consent may be given or withheld in the Landlord's sole discretion and, if given, shall not constitute a consent to any subsequent such Transfer, whether by the person herein above named as the "Tenant" or by any such transferee). The Landlord shall be entitled, at its sole discretion, to condition any such consent upon the entry by such person into an agreement with (and in form and substance satisfactory to) the Landlord, by which it assumes all of the Tenant's obligations hereunder. Any person to whom any Transfer is attempted without such consent shall have no claim, right or remedy whatsoever hereunder against the Landlord, and the Landlord shall have no duty to recognize any person claiming under or through the same. No such action taken with or without the Landlord's consent shall in any way relieve or release the Tenant from liability for the timely performance of all of the Tenant's obligations hereunder. The Tenant hereby acknowledges that any merger, consolidation or other restructuring of ownership interests in Tenant constitutes a Transfer hereunder. As additional rent, Tenant shall reimburse Landlord promptly for reasonable legal and other expenses incurred by Landlord in connection with any request by Tenant for consent to assignment or subletting; no assignment or subletting shall affect the continuing primary liability of Tenant (which, following assignment, shall be joint and several with the assignee); no consent to any of the foregoing in a specific instance shall operate as a waiver in any subsequent instance. In the event that any assignee or subtenant pays to tenant any amounts in excess of the Annual Rent and Additional Rent then payable hereunder, or pro rata portion thereof on a square footage basis for any portion of the Premises, Tenant shall promptly pay said excess to Landlord as and when received by Tenant.

10.2. Anything contained in the foregoing provisions of this Section to the contrary notwithstanding, neither the Tenant nor any other person having an interest in the possession, use or

occupancy of the Premises or any other portion of the Property shall enter into any lease, sublease, license, concession or other agreement for the possession, use or occupancy of space in the Premises or any other portion of the Property which provides for any rental or other payment for such use, occupancy or utilization based in whole or in part upon the net income or profits derived by any person from the space in the Premises or other portion of the Property so leased, used or occupied (other than any amount based on a fixed percentages of receipts or sales).

**10.3.** In the event of any Transfer with or without Landlord's consent, Landlord may, at its sole option, have the right at any time or from time to time after such Transfer to terminate this Lease as to all or any portion of the Premises and enter into a direct lease agreement with the proposed sublessee. Neither Tenant nor any party claiming an interest under or through Tenant shall interfere with Landlord's exercise of its rights hereunder. Tenant hereby indemnifies and holds Landlord harmless from and against any and all liabilities, costs, losses or damages, including reasonable attorneys fees and court costs, arising from any breach of the provisions of this section by Tenant.

#### **SECTION 11. RULES AND REGULATIONS.**

The Landlord shall have the right to prescribe, at its sole discretion, reasonable rules and regulations (hereinafter referred to as the "Rules and Regulations") having uniform applicability to all tenants of the Building (subject to the provisions of their respective leases) and governing their use and enjoyment of the Building and the remainder of the Property; provided, that the Rules and Regulations shall not materially interfere with the Tenant's use and enjoyment of the Premises, in accordance with the provisions of this Lease, for the purposes enumerated in the provisions of Section 3. The Tenant shall adhere to the Rules and Regulations and shall cause its agents, employees, invitees, visitors and guests to do so. A copy of the Rules and Regulations in effect on the date hereof is attached hereto as Exhibit C.

#### **SECTION 12. SUBORDINATION; ATTORNMENT AND NON-DISTURBANCE.**

**12.1. Subordination.** This Lease shall be subject and subordinate to the lien, operation and effect of each mortgage, deed of trust, ground lease and/or other, similar instrument of encumbrance heretofore or hereafter covering any or all of the Premises or the remainder of the Property (and each renewal, modification, consolidation, replacement or extension thereof), (each of which is herein referred to as a "Mortgage"), all automatically and without the necessity of any action by either party hereto.

**12.2. Attornment and non-disturbance.** The Tenant shall, promptly at the request of the Landlord or the holder of any Mortgage (herein referred to as a "Mortgagee"), execute, enseat, acknowledge and deliver such further instrument or instruments

12.2.1. Evidencing such subordination as the Landlord or such Mortgagee deems necessary or desirable, and

12.2.2. (at such Mortgagee's request) attorning to such Mortgagee. Landlord will use its reasonable efforts to obtain an agreement from the Mortgagee (in such Mortgagee's usual form) that such Mortgagee will, in the event of a foreclosure of any such mortgage or deed of trust (or termination of any such ground lease) take no action to interfere with the Tenant's rights hereunder, except on the occurrence of an Event of Default.

**12.3.** Anything contained in the provisions of this Section to the contrary notwithstanding, any Mortgagee may at any time subordinate the lien of its Mortgage to the operation and effect of this Lease without obtaining the Tenant's consent thereto, by giving the Tenant written notice thereof, in which event this Lease shall be deemed to be senior to such Mortgage without regard to their respective dates of execution, delivery and/or recordation among the Land Records of the said County, and thereafter such Mortgagee shall have the same rights as to this Lease as it would have had, were this Lease executed and delivered before the execution of such Mortgage.

#### **SECTION 13. DEFAULT.**

**13.1. Definition:** As used in the provisions of this Lease, each of the following events shall constitute, and is hereinafter referred to as, an "Event of Default":

13.1.1. If the Tenant fails to (a) pay any Rent or any other sum which it is obligated to pay by any provision of this Lease, when and as due and payable hereunder and without demand therefor, or (b) perform any of its other obligations under the provisions of this Lease; or

13.1.2. If the Tenant (a) applies for or consents to the appointment of a receiver, trustee or liquidator of the Tenant or of all or a substantial part of its assets, (b) files a voluntary petition in bankruptcy or admits in writing its inability to pay its debts as they come due, (c) makes an assignment for the benefit of its creditors, (d) files a petition or an answer seeking a reorganization or an arrangement with creditors, or seeks to take advantage of any insolvency law, (e) performs any other act of bankruptcy, or (f) files an answer admitting the material allegations of a petition filed against the Tenant in any bankruptcy, reorganization or insolvency proceeding; or

13.1.3. if (a) an order, judgment or decree is entered by any court of competent jurisdiction adjudicating the Tenant a bankrupt or an insolvent, approving a petition seeking such a reorganization, or appointing a receiver, trustee or liquidator of the Tenant or of all or a substantial part of its assets, or (b) there otherwise commences as to the Tenant or any of its assets any proceeding under any bankruptcy, reorganization, arrangement, insolvency, readjustment, receivership or similar law, and if such order, judgment, decree or proceeding continues unstayed for more than sixty (60) consecutive days after any stay thereof expires;

13.1.4. If the Tenant fails to occupy and assume possession of the Premises within fifteen (15) days after the Commencement Date;

13.1.5. If the Tenant generally fails to pay its debts as they become due; or

13.1.6. If the Tenant vacates or abandons the Premises, whether or not Rent or other sums are due and unpaid hereunder.

**13.2. Notice to Tenant; grace period.** Anything contained in the provisions of this Section to the contrary notwithstanding, on the occurrence of an Event of Default the Landlord shall not exercise any right or remedy which it holds under any provision of this Lease or applicable law unless and until

13.2.1. The Landlord has given written notice thereof to the Tenant, if written notice is required by this Section for the Event of Default which has occurred, and

13.2.2. The Tenant has failed, (a) if such Event of Default consists of a failure to pay money, within five (5) days of the due date, or (b) if such Event of Default consists of something other than a failure to pay money, within thirty (30) days thereafter actively, diligently and in good faith to begin to cure such Event of Default and to continue thereafter to do so until it is fully cured; provided, that

13.2.3. No such notice shall be required, and the Tenant shall be entitled to no such grace period, (a) in an emergency situation in which the Landlord acts to cure such Event of Default pursuant to the provisions of paragraph 13.3.5; or (b) the Tenant commits an Event of Default more than twice during any twelve (12) month period, or (c) if the Tenant has substantially terminated or is in the process of substantially terminating its continuous occupancy and use of the Premises for the purpose set forth in the provisions of Section 3, or (d) in the case of any Event of Default enumerated in the provisions of paragraphs 13.1.2., 13.1.3., 13.1.4. and 13.1.6.

**13.3. Landlord's rights on Event of Default.** On the occurrence of any Event of Default, the Landlord may (subject to the operation and effect of the provisions of subsection 13.2) take any or all of the following actions:

13.3.1. re-enter and repossess the Premises and any and all improvements thereon and additions thereto;

13.3.2. declare the entire balance of the Rent for the remainder of the Term to be due and payable, and collect such balance in any manner not inconsistent with applicable law;

13.3.3. terminate this Lease;

13.3.4. relet any or all of the Premises for the Tenant's account for any or all of the remainder of the Term as herein above defined, or for a period exceeding such remainder, in which event the Tenant shall pay to the Landlord, at the times and in the manner specified by the provisions of Section 2, the Base Rent and any Additional Rent accruing during such remainder, less any monies received by the Landlord, with respect to such remainder, from such reletting, as well as the cost to the Landlord of any attorneys' fees or of any repairs or other action (including those taken in exercising the Landlord's rights under any provision of this Lease) taken by the Landlord on account of such Event of Default;

13.3.5. cure such Event of Default in any other manner (after giving the Tenant written notice of the Landlord's intention to do so except as provided in paragraph 13.2.3), in which event the Tenant shall reimburse the Landlord for all expenses incurred by the Landlord in doing so, plus interest thereon at the lesser of the rate of twenty percent (20%) per annum or the highest rate then permitted on account thereof by applicable law, which expenses and interest shall be Additional Rent and shall be payable by the Tenant immediately on demand therefor by the Landlord; and/or

13.3.6. pursue any combination of such remedies and/or any other remedy available to the Landlord on account of such Event of Default under applicable law.

**13.4. No waiver.** No action taken by the Landlord under the provisions of this Section shall operate as a waiver of any right which the Landlord would otherwise have against the Tenant for the Rent hereby reserved or otherwise, and the Tenant shall remain responsible to the Landlord for any loss and/or damage suffered by the Landlord by reason of any Event of Default.

**13.5. Default by Landlord.** In the event of any default by Landlord, Tenant's exclusive remedy shall be an action for actual direct damages (Tenant hereby waiving the benefit of any laws granting it a lien upon the property of Landlord and/or upon rent due Landlord), but prior to any such action Tenant will give Landlord written notice specifying such default with particularity, and Landlord shall thereupon have thirty (30) days in which to cure any such default. Unless and until Landlord fails to so cure any default after such notice, Tenant shall not have any remedy or cause of action by reason thereof. All obligations of Landlord hereunder will be construed as covenants, not conditions, and all such obligations will be binding upon Landlord only during the period of its ownership of the Building and the Property and not thereafter. The term "Landlord" shall mean only the owner, for the time being of the Premises, and in the event of the transfer by such owner of its interest in the Premises, such owner shall thereupon be released and discharged from all covenants and obligations of the Landlord thereafter accruing, but such covenants and obligations shall be binding during the lease term upon each new owner for the duration of such owner's ownership. Notwithstanding any other provision hereof, Landlord shall not have any personal liability hereunder. In the event of any breach or default by Landlord in any term or provision of this Lease, Tenant agrees to look solely to the equity or interest then owned by Landlord in the Property, however, in no event, shall any deficiency judgment or any money judgment of any kind be sought or obtained against any Landlord.

#### **SECTION 14. ESTOPPEL CERTIFICATE.**

The Tenant shall from time to time, within five (5) days after being requested to do so by the Landlord or any Mortgagee, execute, enseat, acknowledge and deliver to the Landlord (or, at the Landlord's request, to any existing or prospective purchaser, transferee, assignee or Mortgagee of any or all of the Premises, the Property, any interest therein or any of the Landlord's rights under this Lease) an instrument in recordable form,

**14.1.** certifying (a) that this Lease is unmodified and in full force and effect (or, if there has been any modification thereof, that it is in full force and effect as so modified, stating therein the nature of such modification); (b) as to the dates to which the Base Rent and any Additional Rent and other charges arising hereunder have been paid; (c) as to the amount of any prepaid Rent or any credit due to the Tenant hereunder; (d) that the Tenant has accepted possession of the Premises, and the date on which the Term commenced; (e) as to whether, to the best knowledge, information and belief of the signer of such certificate, the Landlord or the Tenant is then in default in performing any of its obligations hereunder (and, if so, specifying the nature of each such default); and (f) as to any other fact or condition reasonably requested by the Landlord or such other addressee; and

14.2. acknowledging and agreeing that any statement contained in such certificate may be relied upon by the Landlord and any such other addressee.

14.3. In the event that Tenant fails to deliver in a timely manner the estoppel certificate described in Section 14, Landlord may complete such a certificate on behalf of Tenant, which certificate shall be binding against Tenant as if Tenant itself signed such certificate. For such purpose, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact (which appointment shall be deemed coupled with an interest) for and in its name to prepare and sign on Tenant's behalf such an estoppel certificate, Tenant hereby ratifying and confirming all the said attorney shall lawfully do or choose to do or be done by virtue hereof, it being understood and agreed that the aforesaid provisions impose no burden or obligation on the Landlord to do or perform any act whatsoever. After said estoppel certificate has been prepared by Landlord, Landlord shall provide Tenant a copy thereof. Unless Tenant modifies such certificate as may be appropriate to make the certificate fully accurate, and signs and returns to Landlord the certificate within three (3) days after receipt from Landlord, Landlord shall be entitled and authorized to sign such estoppel certificate and deliver to any Mortgagee or other person such estoppel certificate in the name and on behalf of Tenant.

#### **SECTION 15. QUIET ENJOYMENT.**

The Landlord hereby covenants that the Tenant, on paying the Rent and performing the covenants set forth herein, shall peaceably and quietly hold and enjoy, throughout the Term, (a) the Premises, and (b) such rights as the Tenant may hold hereunder with respect to the remainder of the Property.

#### **SECTION 16. NOTICES.**

Any notice, demand, consent, approval, request or other communication or document to be provided hereunder to a party hereto shall be (a) given in writing, and (b) deemed to have been given (i) forty-eight (48) hours after being sent as certified or registered mail in the United States mails, postage prepaid, return receipt requested, upon its hand delivery to such party or by overnight delivery, as addressed as follows:

**If to the Landlord:** AvalonBay Communities, Inc.  
2900 Eisenhower Avenue  
Suite 300  
Alexandria, VA 22134

**If to Tenant:** TENANT NAME  
TENANT ADDRESS

Each party may change its notice address by giving written notice of such change to the other party in accordance with the terms of this Section 16.

#### **SECTION 17. LANDLORD'S LIEN.**

In addition to any statutory lien for Rent in Landlord's favor, Landlord shall have and Tenant hereby grants to Landlord a continuing security interest for all Rent and other sums of money becoming due hereunder from Tenant, upon all goods, equipment, fixtures, furniture, inventory, accounts, contract rights, chattel paper and other personal property of Tenant situated on the Premises subject to this Lease and such property shall not be removed therefrom without the consent of Landlord until all arrearages in Rent as well as any and all other sums of money then due to Landlord hereunder shall first have been paid and discharged. Products of the collateral listed above are also covered. In the event of a default under this Lease, Landlord shall have, in addition to any other remedies provided herein or by law, all rights and remedies under the Uniform Commercial Code, including without limitation the right to sell the property described in this Section at public or private sale upon five (5) days' notice to Tenant. Tenant hereby agrees to execute such other instruments necessary or desirable in Landlord's discretion to perfect the security interests hereby granted. Landlord and Tenant agree that this Lease and Security Agreement serves as a financing statement and that a copy of photographic or other reproduction of this portion of the Lease may be filed of record by Landlord and have the same force and effect as the original. This Security Agreement and Financing Statement also covers fixtures located at the Premises and may be filed

for record in the land records. The record owner of the Property is **AvalonBay Communities, Inc.** Tenant hereby warrants and represents that the collateral subject to the security interest granted by this Section is not purchased or used by Tenant for personal, family or household purposes.

## **SECTION 18. GENERAL.**

**18.1. Effectiveness.** This Lease shall become effective upon and only upon its execution by each party hereto.

**18.2. Complete understanding.** This Lease represents the complete understanding between the parties hereto as to the subject matter hereof, and supersedes all prior written or oral negotiations, representations, warranties, statements or agreements between the parties hereto as to the same.

**18.3. Amendment.** This Lease may be amended by and only by an instrument executed and delivered by each party hereto.

**18.4. Applicable law.** This Lease shall be given effect and construed by application of the laws of the Commonwealth of Virginia, and any action or proceeding arising hereunder shall be brought in the Circuit Court for **Alexandria** County of the Commonwealth of Virginia; provided, that if such action or proceeding arises under the Constitution, laws or treaties of the United States of America, or if there is a diversity of citizenship between the parties thereto so that it is to be brought in a United States District Court, it shall be brought in the United States District court for the Eastern District of the Commonwealth of Virginia.

**18.5. Waiver.** The Landlord shall not be deemed to have waived the exercise of any right which it holds hereunder unless such waiver is made expressly and in writing (and no delay or omission by the Landlord in exercising any such right shall be deemed to be a waiver of its future exercise). No such waiver as to any instance involving the exercise of any such right shall be deemed a waiver as to any other such instance, or any other such right.

**18.6. Time of essence.** Time shall be of the essence of this Lease.

**18.7. Headings.** The headings of the Sections, subsections, paragraphs and subparagraphs hereof are provided herein for and only for convenience of reference, and shall not be considered in construing their contents.

**18.8. Construction.** As used herein,

18.8.1. the term "person" means a natural person, a trustee, a corporation, a partnership and any other form of legal entity; and

18.8.2. all references made (a) in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, (b) in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well, and (c) to any Section, subsection, paragraph or subparagraph shall, unless therein expressly indicated to the contrary, be deemed to have been made to such Section, subsection, paragraph or subparagraph of this Lease.

**18.9. Exhibits.** Each writing referred to herein as being attached hereto as an exhibit or otherwise designated herein as an exhibit hereto is hereby made a part hereof.

**18.10. Severability.** No determination by any court, governmental body or otherwise that any provision of this Lease or any amendment hereof is invalid or unenforceable in any instance shall affect the validity or enforceability of (a) any other such provision, or (b) such provision in any circumstance not controlled by such determination. Each such provision shall be valid and enforceable to the fullest extent allowed by, and shall be construed wherever possible as being consistent with, applicable law.

**18.11. Definition of the "Landlord".**

18.11.1. As used herein, the term the "Landlord" means the person herein above named as such, and its heirs, personal representatives, successors and assigns (each of whom shall

have the same rights, remedies, powers, authorities and privileges as it would have had, had it originally signed this lease as the Landlord).

18.11.2. No person holding the Landlord's interest hereunder (whether or not such person is named as the "Landlord" herein) shall have any liability hereunder after such person ceases to hold such interest, except for any such liability accruing while such person holds such interest.

18.11.3. Neither the Landlord nor any principal of the Landlord, whether disclosed or undisclosed, shall have any personal liability under any provision of this Lease.

**18.12. Definition of the "Tenant".** As used herein, the term the "Tenant" means each person herein above named as such and such person's heirs, personal representatives, successors and assigns, each of whom shall have the same obligations, liabilities, rights and privileges as it would have possessed had it originally executed this Lease as the Tenant; provided, that no such right or privilege shall inure to the benefit of any assignee of the Tenant, immediate or remote, unless the assignment to such assignee is made in accordance with the provisions of Section 10. Whenever two or more persons constitute the Tenant, all such persons shall be jointly and severally liable for performing the Tenant's obligations hereunder.

**18.13. Commissions.** Each party hereto hereby represents and warrants to the other that, in connection with the leasing of the Premises hereunder, the party so representing and warranting has not dealt with any real estate broker, agent or finder, other than Cambridge Property Group Limited Partnership representing Landlord and **Simpson Development** representing Tenant, and there is no other commission, charge or other compensation due on account thereof. Each party hereto shall indemnify and hold harmless the other against and from any inaccuracy in such party's representation.

**18.14. Recordation.** This Lease may not be recorded among the Land Records of the said County or among any other public records, without the Landlord's prior express, written consent thereto, and any attempt by the Tenant to do so without having obtained the Landlord's consent thereto shall constitute an Event of Default hereunder. If this Lease is recorded by either party hereto, such party shall bear the full expense of any transfer, documentary stamp or other tax, and any recording fee, assessed in connection with such recordation; provided, that if under applicable law the recordation of this Lease hereafter becomes necessary in order for this Lease to be or remain effective, the Tenant shall bear the full expense of any and all such taxes and fees incurred in connection therewith.

**18.15. Tenant's Declaration.** Tenant is not the subject of (i) any petition under any Chapter of the Bankruptcy Code, Title 11, United States Code (the "Bankruptcy Code"), and has no intent to seek relief, protection, reorganization, liquidation, dissolution or similar relief from debtors under any local, state, federal or other insolvency laws or laws providing for relief of debtors, or in equity, or directly or indirectly to cause any of them to file any such petition or to seek any such relief, either at the present time or at any time hereafter; or (ii) any actions, suits or proceedings pending or threatened against Tenant or involving Tenant's business that could have a material adverse effect on Tenant's ability to perform its obligations pursuant to this Lease.

**18.16. Waiver of Trial by Jury.** The Tenant hereby waives trial by jury in any action or proceeding to which the Tenant and the Landlord may be parties, arising out of or in any way pertaining to (a) this Lease, or (b) the Property. It is agreed and understood that this waiver constitutes a waiver of trial by jury of all claims against all parties to such actions or proceedings, including claims against parties who are not parties to this Lease.

This waiver is knowingly, willingly and voluntarily made by the Tenant, and the Tenant hereby represents that no representations of fact or opinion have been made by any individual to induce this waiver of trial by jury or to in any way modify or nullify its effect. The Tenant hereby represents that it has been represented in the signing of this Lease and in the making of this waiver by independent legal counsel, selected of its own free will, and that it has had the opportunity to discuss this waiver with counsel.

**18.17. Approval by Mortgagees.** Anything contained in the provisions of this Lease to the contrary notwithstanding, the Landlord shall be entitled at any time hereafter but before the Landlord delivers possession of the Premises to the Tenant hereunder, to terminate this Lease by giving

written notice thereof to the Tenant, if any Mortgagee fails to approve this Lease for purposes of the provisions of its Mortgage, and in the manner set forth therein.

**18.18. Required Changes in Lease by Lenders.** In the event that any lender providing construction or permanent financing or any refinancing for the Building requires, as a condition of such financing, that modifications to this Lease be obtained; and provided that such modifications (i) are reasonable; (ii) do not adversely affect Tenant's use of the Leased Premises as herein permitted or the leasehold interest hereby created; (iii) do not increase the base rent, operating rent and other sums to be paid by Tenant hereunder; and (iv) do not affect the Term, the location of or access to the Leased Premises, signage, parking or sublease and assignment provisions, then Landlord may submit to Tenant a written amendment to this Lease incorporating such required written changes, and Tenant hereby covenants and agrees to execute, acknowledge and deliver such amendment to Landlord within five (5) days of Tenant's receipt thereof.

**18.19. Financial Information.** At Landlord's request, Tenant shall deliver certified copies of Tenant's most recent and historical financial statements. Such statements shall include Balance Sheets, Income and Expense Statements as well as any other supporting documents required by Landlord or any person or institution providing financing to the Property or relating to the Property.

**18.20. Authority.** The person executing and delivering this Lease on behalf of Landlord represents and warrants that he has full power, authority and right to do so pursuant to the ownership and of Landlord. The person executing and delivering this Lease on behalf of Tenant represents and warrants that he has full power, authority and right to do so on behalf of Tenant.

**IN WITNESS WHEREOF,** each party hereto has executed and ensealed this Lease or caused it to be executed and ensealed on its behalf by its duly authorized representatives, the day and year first above written.

**WITNESS:**

\_\_\_\_\_

**LANDLORD:**  
**AVALONBAY COMMUNITIES, INC.**

By: \_\_\_\_\_  
Charlotte B. Strain  
Senior Director, Retail

**WITNESS:**

\_\_\_\_\_

**TENANT:**  
**CITY OF ALEXANDRIA**

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

**AGREEMENT OF LEASE  
by and between**

**AvalonBay Communities, Inc.**

**and**

**City of Alexandria**

**EXHIBIT A**

**PREMISES**

The Premises consists of approximately 15,000 rentable square feet in Alexandria Tech Center 3, a 60,000 square foot office project located at 2900 Eisenhower Avenue, Alexandria, Virginia 22314; (and the Premises) to be located in the approximate location shown on the plan attached hereto as Exhibit A-1.

**AGREEMENT OF LEASE  
by and between**

**AvalonBay Communities, Inc.**

**and**

**City of Alexandria**

**EXHIBIT A-1**

**SITE PLAN**

We will add this at lease execution.

**AGREEMENT OF LEASE  
by and between**

**AvalonBay Communities, Inc.**

**and**

**City of Alexandria**

**EXHIBIT B**

**PLANS AND SPECIFICATIONS FOR THE PREMISES**

**1. Partitioning**

Standard interior partitions shall be constructed on one-half inch (1/2") gypsum drywall on each side of three and five-eighths inch (3-5/8") steel studs, from slab to ceiling. Such drywall shall be taped, spackled, finished and painted.

All public corridor and demising partitions shall be sound- insulated with 3-1/2" of batt insulation, finished gypsum drywall, and shall be constructed according to applicable building code provisions.

**2. Doors**

Standard interior doors shall be paint grade solid (particle) core, shall be painted to match the partitioning and shall include building standard hardware.

Standard suite entrance doors shall be solid core stain grade, and shall include a building standard lockset.

**3. Electrical Service**

Electric lights shall be four bulb, flush-mounted, fluorescent fixtures having dimensions of two feet (2') by four feet (4'), and capable of providing seventy (70) foot-candles at desk height. Installation of all telephone wall outlets and wiring of all telephone outlets shall be by a telephone company which shall be employed by Tenant.

**4. Floor Covering**

Carpeting throughout the Premises using the Landlord's building standard, type and grade (30 oz cut-pile, Patcraft Jazz carpet or equal) of such color as selected by the Tenant from the Landlord's standard selections.

Four inch (4") high vinyl base for each partition.

**5. Window Covering**

For each exterior window architectural narrow slat venetian blinds of a standard color.

**6. Wall Finishes**

Two (2) coats of paint on all partitions, doors, door frames, and columns using such paint color as is selected by the Tenant from the selections provided by the Landlord.

All metal door frames shall receive two (2) coats of semi-gloss enamel.

**EXHIBIT B - PLANS AND SPECIFICATIONS FOR THE PREMISES  
PAGE TWO (2)**

**7. Ceiling**

An acoustical tile ceiling comprised of two foot (2') by four foot (4') panels, having an exposed white grid system. Ceiling tile shall be Armstrong #755B or equal, ceiling grid to be Chicago Metallic 15/16" Intermediate duty or equal.

**8. Heating, Ventilating and Air Conditioning System**

Tenant will be responsible for all construction costs associated with changes to existing building heating, ventilation, air conditioning, and electrical systems due to Tenant requirements which exceed or differ from building standards.

**9. Floor Load**

Floor load capacities are designed for normal office space use. The Tenant shall notify the Landlord before the preparation of working drawings for the Premises of any concentration of floor loads which the tenant may desire, and shall bear any additional cost incurred by the Landlord in accommodating the same.

**AGREEMENT OF LEASE  
by and between**

**AvalonBay Communities, Inc.**

**and**

**City of Alexandria**

**EXHIBIT B-1**

**SPACE PLAN**

We will add this at lease execution.

**AGREEMENT OF LEASE**

**by and between**

**LANDLORD'S NAME**

**and**

**TENANT NAME**

**EXHIBIT C**

**CURRENT RULES AND REGULATIONS**

1. The sidewalks, lobbies, passages, elevators and stairways shall not be obstructed by the Tenant and used by the Tenant for any purposes other than ingress and egress from and to the Tenant's offices. The Landlord shall in all cases retain the right to control or prevent access thereto by any person whose presence, in the Landlord's judgment, would be prejudicial to the safety, peace, character or reputation of the Building or of any tenant of the Property.
2. The toilet rooms, water closets, sinks, faucets, plumbing and other service apparatus of any kind shall not be used by the Tenant for any purpose other than those for which they were installed, and no sweepings, rubbish, rags, ashes, chemicals or other refuse or injurious substances shall be placed therein or used in connection therewith by the Tenant, or left by the Tenant in the lobbies, passages, elevators or stairways of the Building.
3. No skylight, window, door or transom of the Building shall be covered or obstructed by the Tenant, and no window shade, blind, curtain, screen, storm window, awning or other material shall be installed or placed on any window or in any window space, except as approved in writing by the Landlord. If the Landlord has installed or hereafter installs any shade, blind or curtain in the Premises, the Tenant shall not remove it without first obtaining the Landlord's written consent thereto.
4. No sign, lettering, insignia, advertisement, notice or other thing shall be inscribed, painted, installed, erected or placed in any portion of the Premises which may be seen from outside the Building, or on any window, window space or other part of the exterior or interior of the Building, unless first approved in writing by the Landlord. Names on suite entrances shall be provided by and only by the Landlord and at the Tenant's expense, using in each instance lettering of a design and in a form consistent with the other lettering in the Building, and first approved in writing by the Landlord. The Tenant shall/will not erect any stand, booth or showcase or other article or matter in or upon the Premises and/or the Building without first obtaining the Landlord's written consent thereto.
5. The Tenant shall not place any additional lock upon any door within the Premises or elsewhere upon the Property, and shall surrender all keys for all such locks at the end of the Term. The Landlord shall provide the Tenant with one set of keys to the Premises when the Tenant assumes possession thereof.
6. The delivery of towels, ice, water, food, beverages, newspaper and other supplies, equipment and furniture will be permitted only under the Landlord's direction and control.
7. The Tenant shall not do or permit to be done anything which obstructs or interferes with the rights of any other tenant of the Property. The Tenant shall not keep anywhere within the Property any matter having an offensive odor, or any kerosene, gasoline, benzine, camphene, fuel or other explosive or highly flammable material. No bird, fish or other animal shall be brought into or kept in or about the Premises.

**EXHIBIT C - CURRENT RULES AND REGULATIONS**  
**PAGE TWO (2)**

8. So that the Premises may be kept in a good state of preservation and cleanliness, the Tenant shall, while in possession of the Premises, permit only the Landlord's employees and contractors to clean the Premises unless prior thereto the Landlord otherwise consents in writing. The Landlord shall not be responsible to the Tenant for any damage done to any furniture or other property of the Tenant or any other person caused by any of the Landlord's employees or any other person, for any loss sustained by any of the Tenant's employees, or for any loss of property of any kind in or from the Premises, however occurring. The Tenant shall see each day that the windows are closed and the doors securely locked before leaving the Premises, and that all lights and standard office equipment within the Premises are turned off.
9. If the Tenant desires to install signaling, telegraphic, telephonic, protective alarm or other wires, apparatus or devices within the Premises, the Landlord shall direct where and how they are to be installed and, except as so directed, no installation, boring or cutting shall be permitted. The Landlord shall have the right (a) to prevent or interrupt the transmission of excessive, dangerous or annoying current of electricity or otherwise into or through the Building or the Premises, (b) to require the changing of wiring connections or layout at the Tenant's expense, to the extent that the Landlord may deem necessary, (c) to require compliance with such reasonable rules as the Landlord may establish relating thereto, and (d) in the event of noncompliance with such requirements or rules, immediately to cut wiring or do whatever else it considers necessary to remove the danger, annoyance or electrical interference with apparatus in any part of the Building. Each wire installed by the Tenant must be clearly tagged at each distributing board and junction box and elsewhere where required by Landlord, with the number of the office to which such wire leads and the purpose for which it is used, together with the name of the tenant or other concern, if any, operating or using it.
10. A directory will be provided by the Landlord on the ground floor of the Building, on which the Tenant's name may be placed.
11. No furniture, package, equipment, supplies or merchandise may be received in the Building, or carried up or down in the elevators or stairways, except during such hours as are designated for such purpose by the Landlord, and only after Tenant gives notice thereof to the Landlord. The Landlord shall have the exclusive right to prescribe the method and manner in which any of the same is brought into or taken out of the Building, and the right to exclude from the Building any heavy furniture, safe or other article which may create a hazard and to require it to be located at a designated place in the Premises. The Tenant shall not place any weight anywhere beyond the safe carrying capacity of the Building. The cost of repairing any damage to the Building or any other part of the Property caused by taking any of the same in or out of the Premises, or any damage caused while it is in the Premises or the rest of the Building, shall be borne by the Tenant.
12. Without the Landlord's prior written consent, (a) nothing shall be fastened to (and no hole shall be drilled, or nail or screw driven into) any wall or partition, (b) no wall, or partition shall be painted, papered or otherwise covered or moved in any way or marked or broken, (c) no connection shall be made to any electrical wire for running any fan, motor or other apparatus, device or equipment, (d) no machinery of any kind other than customary small business machinery shall be allowed in the Premises, (e) no switchboard or telephone wiring or equipment shall be placed anywhere other than where designated by the Landlord, and (f) no mechanic shall be allowed to work in or about the Building other than one employed by the Landlord, unless approved in writing by Landlord.
13. The Tenant shall have access to the Premises at all reasonable times. The Landlord shall in no event be responsible for admitting or excluding any person from the Premises. In case of invasion, hostile attack, insurrection, mob violence, riot, public excitement or other commotion, explosion, fire or any casualty, the Landlord shall have the right to bar or limit access to the Building to protect the safety of occupants of the Property, or any property within the Property.

**EXHIBIT C - CURRENT RULES AND REGULATIONS**  
**PAGE THREE (3)**

14. The Landlord shall have the right to rescind, suspend or modify the Rules and Regulations and to promulgate such other Rules or Regulations as, in the Landlord's reasonable judgment, are from time to time needed for the safety, care, maintenance, operation and cleanliness of the Building, or for the preservation of good order therein. Upon the Tenant's having been given notice of the taking of any such action, the Rules and Regulations as so rescinded, suspended, modified or promulgated shall have the same force and effect as if in effect at the time at which the Tenant's lease was entered into (except that nothing in the Rules and Regulations shall be deemed in any way to alter or impair any provision of such lease).
15. The use of any room within the Building as sleeping quarters is strictly prohibited at all times.
16. The Tenant shall keep the windows and doors of the Premises (including those opening on corridors and all doors between rooms entitled to receive heating or air conditioning service and rooms not entitled to receive such service), closed while the heating or air conditioning system is operating, in order to minimize the energy used by, and to conserve the effectiveness of, such systems. The Tenant shall comply with all reasonable Rules and Regulations from time to time promulgated by the Landlord with respect to such systems or their use.
17. Nothing in these Rules and Regulations shall give any Tenant any right or claim against the Landlord or any other person if the Landlord does not enforce any of them against any other tenant or person (whether or not the Landlord has the right to enforce them against such tenant or person), and no such nonenforcement with respect to any tenant shall constitute a waiver of the right to enforce them as to the Tenant or any other tenant or person.

**AGREEMENT OF LEASE  
by and between**

**AvalonBay Communities, Inc.**

**and**

**City of Alexandria**

**EXHIBIT D**

**BASE RENT**

<b>LEASE YEAR</b>	<b>SQUARE FEET</b>	<b>ANNUAL BASE RENT</b>	<b>MONTHLY BASE RENT</b>	<b>RENTAL RATE</b>
1	15,000	\$373,500.00	\$31,125.00	\$24.90
2	15,000	\$384,705.00	\$32,058.75	\$25.65
3	15,000	\$396,246.15	\$33,020.51	\$26.42
4	15,000	\$408,133.53	\$34,011.13	\$27.21
5	15,000	\$420,377.54	\$35,031.46	\$28.03

AGREEMENT OF LEASE  
by and between

AvalonBay Communities, Inc.

and

City of Alexandria

EXHIBIT E

LEASE ADDENDUMS

Addendums to the Lease dated \_\_\_\_\_, 2003 between **AvalonBay Communities, Inc.**, as "Landlord", and **City of Alexandria**, as "Tenant". Landlord and Tenant hereby agree as follows:

**1. Renewal Option. Provided Tenant has not entered into an Event of Default and has not sublet or assigned any portion of the Premises, Tenant shall have an option to renew the Lease for two (2) additional two (2) year terms and one (1) additional one (1) year term at the same terms and conditions contained within the Lease except that the Annual Rent shall be calculated at the greater of the current market rate for office space in Alexandria, as determined by the Landlord's in its reasonable judgement, or the then escalated rate. Tenant shall give the Landlord written notice of its intent to exercise the Renewal Option not less than six (6) months prior to the expiration of the then current Lease Term. Landlord shall continue to provide free parking for 2.5 spaces per thousand square feet of rentable area during each renewal term. Additional parking will be provided at the current market rate as mutually agreed upon by Landlord and Tenant.**

**2. Overtime HVAC. Landlord and Tenant acknowledge that Tenant will use Premises twenty four (24) hours a day and seven (7) days a week during Term. More specifically, Tenant shall require that HVAC be operational during such time. Landlord shall allow Tenant the ability to run the HVAC during this time unless required to shut down the HVAC for the purpose of maintenance, by law, or by any of the causes described in the provisions of Section 5.1. of the Lease. Notwithstanding the above, Landlord shall have no liability to the Tenant for any compensation or reduction of Rent on account of any failure, modification or interruption of HVAC for reasons described above.**

**PARKING LEASE**

THIS PARKING LEASE ("Lease") is made this \_\_\_\_ day of November 2003, by and between **ALEXANDRIA TECH CENTER ASSOCIATES, LLC**, a Virginia Limited Liability Company (hereinafter known as "Landlord") and the **CITY OF ALEXANDRIA**, a municipal corporation of the Commonwealth of Virginia (hereinafter known as "Tenant").

**WITNESSETH**

1. **PREMISES.** In consideration of the rent herein reserved and mutual covenants and agreements herein contained, Landlord hereby leases to Tenant seventy-five (75) of the parking spaces (the "Parking Spaces" or the "Premises") located in the Alexandria Tech Center Parking Structure, 2960 Eisenhower Avenue, in the City of Alexandria, Virginia. The seventy-five (75) Parking Spaces are to be located on the fourth level and fifth (roof level) of the parking structure, more particularly shown on the parking structure layout plan attached hereto as Exhibit A. Access to the seventy-five (75) Parking Spaces shall be secured by Landlord from access by any persons other than representatives of the City of Alexandria.

2. **TERM.**

a) The term of this Lease shall be for a period of five (5) years commencing on the date of the commencement of the Office Lease between AvalonBay Communities, Landlord, and City of Alexandria, Tenant, for office space located at 2900 Eisenhower Avenue, Alexandria, Virginia, and terminating on the last day of the calendar month that is five (5) full years after the commencement date.

b) Tenant shall have access to the Parking Spaces 24 hours per day, 365 days per year during the term of this Lease subject to the Landlord's right to perform maintenance or repair work with respect to the Parking Spaces. Under such circumstances, Landlord will use reasonable efforts not to disrupt the parking of the Tenant and shall provide alternate parking within the Parking Structure while performing such maintenance or repairs.

c) Tenant shall have the option to renew this Lease for two (2) additional one year terms.



3. RENT.

a) Rent for the first lease year shall be at the rate of:

FIFTY AND 00/100 DOLLARS (\$50.00) per Parking Space per month, payable monthly.

b) Rent for the second lease year shall be at the rate of:

FIFTY-SIX AND 00/100 DOLLARS (\$56.00) per Parking Space per month, payable monthly.

c) Rent for the third lease year shall be at the rate of:

SIXTY-TWO AND 00/100 DOLLARS (\$62.00) per Parking Space per month, payable monthly.

d) Rent for the fourth lease year shall be at the rate of:

SIXTY-EIGHT AND 00/100 DOLLARS (\$68.00) per Parking Space per month, payable monthly.

e) Rent for the fifth lease year shall be at the rate of:

SEVENTY-FOUR AND 00/100 DOLLARS (\$74.00) per Parking Space per month, payable monthly.

f) Rent for the first renewal term shall be at the rate of:

EIGHTY AND 00/100 DOLLARS (\$80.00) per Parking Space per month, payable monthly.

g) Rent for the second renewal term shall be at the rate of:

EIGHTY-SIX AND 00/100 DOLLARS (\$86.00) per Parking Space per month, payable monthly.

h) Rental payments are due and payable in advance on the 1<sup>st</sup> day of each and every month throughout the term of this Lease.

4. TENANT IMPROVEMENTS. Landlord hereby agrees to install security improvements to secure the seventy five (75) leased Parking Spaces within the parking structure. The security improvements generally include furnishing and installing two (2) steel grill overhead doors with controls and metal railing to close precast wall openings on the fourth parking level. Also, Landlord agrees to the installation of a fourth floor elevator lock-off, electrical power wiring, and a UPS battery back up power supply. The scope of the security improvements are to be in accordance with a current "Budget Cost Estimate," to be completed on or around December 1, 2003, in the estimated improvement cost not to exceed approximately \$40,000 attached herewith as Exhibit B. A final cost breakdown of the security improvements is to be prepared as soon as design details and total scope of security requirements are determined.

The tenant will be responsible to make payment to Landlord for the total cost of required tenant security improvements upon lease commencement and occupancy.

5. USE OF PREMISES. Tenant agrees not to use the Premises for any unlawful purpose, nor in a manner that is in violation of any applicable laws, ordinances, rules or regulations, nor in any manner that may cause increase in the basic rate of fire or other types of insurance.

6. LANDLORD'S ACCESS. Landlord may, during any reasonable time or times, upon 24-hours prior notice to Tenant, enter upon the Premises for the purpose of inspecting the same. In case of emergency, Landlord may enter upon the Premises without prior notice.

7. MAINTENANCE.

a) Landlord covenants to keep, repair and maintain, at Landlord's expense, the Premises in good repair, condition and working order, suitable to the use for which Tenant has leased same, during the Initial Term and any renewal terms. Such repair and maintenance includes, but is not limited to, repair of potholes, re-stripping lines for parking spaces, and snow removal. If necessary, Landlord shall at its own expense make such alterations, additions and/or modifications of the Premises so as to comply at all times with all applicable federal, state and local laws, ordinances, rules and regulations pertaining to health, safety, fire and public welfare.

b) If Landlord fails to keep, repair and maintain the Premises in good repair, condition and working order as provided in Section 7(a), and such failure continues for more than fifteen (15) days after written notice from Tenant (except that such fifteen (15) day period shall be extended for such additional period of time as may reasonably be necessary to correct such failure – subject to a maximum extension of thirty (30) days – if such failure, by its nature, cannot be corrected within such fifteen (15) day period, provided that Landlord commences to correct such failure within such fifteen (15) day period and is, at all times thereafter, in the process of diligently curing the same), then Tenant, at its option, may either (a) immediately terminate this Lease and all obligations hereunder, or (b) proceed to make, or cause to be made, such upkeep, repair, and/or maintenance, so as to render the Premises suitable for the use for which same are leased, in which event, Tenant may deduct the cost of same from future rent

installments as they become due and/or may collect such costs from Landlord in any manner provided by law.

c) Landlord covenants to keep and maintain the Premises free of any adverse environmental condition which is deemed hazardous to the health or safety of persons entering the Premises. Landlord covenants to indemnify, defend and hold the Tenant harmless from and against any claims of injury resulting from the presence of any adverse environmental condition which is deemed hazardous to the health or safety of persons entering the Premises.

8. LITIGATION. In the event that that Landlord or its agents, without fault on its/their part, become involved, directly as a result of the occupancy of the Premises by the Tenant, in any litigation, the Tenant shall upon reasonable notice from the Landlord or its agents, take commercially reasonable steps as may be appropriate and necessary to remove said Landlord's connection with, or liability under such litigation and particularly if such litigation throws any cloud or encumbrance upon the title of said Landlord to its Property, located at 2960 Eisenhower Avenue, Alexandria, Virginia, provided that if the Tenant believes it has good and valid defense, or claim in such litigation which Tenant desires to set up and maintain by and throughout court procedure and litigation, the Tenant shall have the right to do so, so long as it first provides adequate assurances to the Landlord that Landlord's interests shall be protected. Nothing set forth in this Section 8 shall obligate Tenant to take any actions or incur any expenses whatsoever in connection with any litigation resulting from the actions or omissions of Landlord or its employees or agents.

9. DAMAGE OR DESTRUCTION OF PREMISES.

a) If the Premises are damaged by fire or other casualty so as to render same, in the reasonable opinion of Tenant, untenable for the use for which Tenant has leased same, this Lease, and all obligations hereunder, shall immediately terminate upon Tenant's giving notice of that fact to Landlord.

b) If the Premises is damaged by fire or other casualty, but not so as to render same untenable, in the reasonable opinion of Tenant, for the use for which Tenant has leased the Premises, upon being so notified by Tenant, Landlord shall repair and restore within a reasonable

time, at Landlord's expense, the Premises to its former condition. In this event, the rent shall be adjusted on a pro rata basis for the period of such repair and restoration for that portion of the Premises rendered untenable for Tenant by the fire or other casualty. If Landlord fails to make or fails to complete repair and restoration of the Premises within a reasonable time after Tenant provides notice of same, then Tenant, at its option, may immediately terminate this Lease and all obligations hereunder.

10. If Tenant shall default in the payment of any rent or other payments required of Tenant, or any part thereof and if such default shall continue for fifteen (15) days after written notice from Landlord or if Tenant shall default in their performance or observance of any other agreement or condition on its part to be performed or observed and if Tenant shall fail to cure said default within thirty (30) days after notice of said default from Landlord; provided that, if any non-monetary default shall reasonably require more than thirty (30) days to cure, Tenant shall be allowed such longer period, not to exceed sixty (60) days from the date of Landlord's default notice to Tenant (unless otherwise agreed to in writing by Landlord), as is necessary to effect such cure, so long as Tenant's efforts to cure are commenced within the aforesaid thirty (30) day period and are diligently pursued to completion, or if any person shall levy upon, take or attempt to take this leasehold interest on any part thereof upon execution, attachment or other process of law, and such action is stayed or vacated within 120-days of this Lease or any interest therein shall by operations of law devolve upon or pass to any person or persons other than Tenant, then in any said cases, Landlord may lawfully and immediately, or at any time thereafter, by written notice to Tenant terminate this Lease, and Tenant's right to use the Premises, and Landlord and Tenant shall thereafter be released from all rights and obligations hereunder. Tenant will pay court costs and reasonable attorney's fees in the event Tenant shall become in default and such default shall continue beyond any applicable notice and cure period specified herein, and it becomes necessary for Landlord thereafter to incur the same in connection with the enforcement or any covenant, condition or agreement herein contained, whether through legal proceedings or otherwise and whether or not any such legal proceedings be prosecuted to a final judgment. Such costs of Landlord shall be due and payable on demand and shall be deemed to be additional rent and shall be added to the installment of rent next accruing or to any subsequent installment of rent, at the election of Landlord.

5

11. NO WASTE. The Tenant covenants that no waste or damage shall be committed upon or to the Premises and that the Premises shall be used only for the purposes stated herein. Tenant shall, throughout the term of this Lease and any renewal or extension thereof as herein provided, not commit waste within the Premises. Tenant shall comply with and carry out all orders, requirements or conditions new or hereafter imposed upon Tenant by the ordinances, and/or regulations of City in which Premises are located. The Tenant shall not alter or in any way change the Premises without prior written consent of the Landlord.

12. LANDLORD'S COVENANTS. Landlord covenants and agrees that throughout the term of this Lease, Landlord shall (a) carry commercial general liability in the amount of at least One Million Dollars (\$1,000,000) liability coverage combined single limit in respect to bodily injury and in respect to property damage in a form providing occurrences basis coverage; (b) own and operate the parking garage structure, in conformity with applicable laws, rules and regulations, including, but not limited to the Americans with Disabilities Act; (c) pay on a timely basis all real estate and other taxes that are payable in respect to the parking structure; (d) maintain the parking garage structure in good condition and repair so as to permit Tenant's quiet enjoyment and use of the Parking Spaces in conformity with the terms of this Lease; and (e) not alter or in any way change the Premises in a manner that would materially adversely affect the Tenant's ability to occupy the Parking Spaces in conformity with the terms of this Lease.

13. LIABILITY. To the extent permitted by law, Tenant agrees that it will indemnify and save the Landlord harmless from any and all liability, damage, expense, cause of action, suit, claim or judgment arising from injury to persons or property on the Premises, resulting from the occupancy or use by Tenant of the Premises, unless caused by or due to the sole negligence or willful misconduct of the Landlord, its agents or employees. In assurance of such indemnity, Tenant represents that it is self-insured with a single public liability and property damage limit of Two Million Dollars (\$2,000,000.00), insuring against all liability of Tenant and its authorized representatives arising out of and in connection with Tenant's use and occupancy of the Premises.

14. NO WAIVERS. The failure of the Landlord to insist, in any one or more instance upon a strict performance of any of the covenants of this Lease, or to exercise any option herein

contained, shall not be construed as a waiver or a relinquishment for the future of such covenant or option, but the same shall continue and remain in full force and effect. The receipt by Landlord of rent, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach of any covenant hereof, and no waiver by Landlord, of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Landlord.

15. SUBORDINATION. This Lease shall be subject and subordinate at all times to the lien of the mortgages now on the Premises, and to all advances made or hereafter to be made upon the security thereof, and subject and subordinate to the lien of any bona fide mortgage or deed of trust which at any time may be made a lien upon the Premises to secure money borrowed from any insurance company or recognized financial institution. The Tenant will execute and deliver such further instrument or instruments subordinating this Lease to the lien of any such mortgage or deed of trust as shall be desired by any such lender or proposed lender, on such terms as may be reasonably acceptable to Tenant. Tenant's obligations to execute any subordination and/or attornment instruments shall be conditioned upon Tenant's receipt of an executed nondisturbance and recognition agreement from the applicable lender or other third party in such form as is reasonably acceptable to Tenant.

16. TITLE. Landlord hereby warrants that it has full power and authority to lease the Premises. Tenant shall have the peaceful and quiet use and possession of the Premises without hindrance on the part of the Landlord, provided Tenant has not violated any provision of this Lease.

17. ENTIRE AGREEMENT; CAPTIONS. It is agreed that Landlord has not made any statement, promise or agreement, or taken upon itself any engagement whatever, verbally or in writing, which in conflict with the terms of this Lease, or that in any way modifies, varies, alters, enlarges or invalidates any of its provision, and that no obligations of the Landlord shall be implied in addition to the obligations herein expressed. The captions contained in this Lease are for the convenience of reference only and in no way limit or enlarge the terms or conditions of this Lease.

18. NOTICES. All payments and notices due under the terms of this Lease shall be forwarded to the parties hereto at the following addresses:

If to Landlord: Alexandria Tech Center Associates LLC  
c/o Simpson Properties, Ltd.  
P.O. Box 430  
Alexandria, VA 22313  
Telephone 703-299-0029 Fax 703-299-0020

With a copy to: Mark C. Hayes, Esq  
Carter, Fullerton & Hayes, LLC  
4115 Annandale Road, Suite 205  
Annandale, VA 22003  
Telephone 703-658-7736

If to Tenant: Alexandria Police Department  
Attn: Chief of Police  
2003 Mill Road  
Alexandria, VA 22313  
Telephone: 703-838-4770 Fax 703-519-3332

With a copy to: Alexandria General Services Department  
Attn: Deputy Director of General Services  
421 King Street, Suite 200  
Alexandria, VA 22314  
Telephone 703-838-4770 Fax 703-519-3332

All notices required under this Lease shall be in writing and deemed to be properly served if sent by Commercial Courier Service of Certified Mail, Return Receipt Requested, to Landlord or to Tenant at the addresses, hereafter designated, unless such addresses are changed by written notification from either party. Notices sent by Courier Service are deemed effective when received or refused; notices given by Certified Mail are deemed effective three (3) business days after being deposited in the U.S. Mail. Any party may change its address for notice purposes by delivering written notice thereof to the other parties in accordance with the foregoing provisions.

19. SUB-LEASING. Tenant shall not sublease, transfer or assign the Premises or any portion thereof without the prior express written consent of Landlord; provided that Tenant's employees, agents, and invitees shall have the right to occupy the Parking Spaces in conformity with the terms of this Lease. Consent of the Landlord to any assignment or subletting shall not operate as a waiver of the necessity for a consent to any subsequent assignment or subletting, and

the terms of such consent shall be binding upon any person holding by, under or through the Tenant. Such consent shall not relieve Tenant from liability hereunder for the payment of rental or performance and observance of any of the terms or conditions of this Lease. A violation by the Tenant of the provisions of this Article shall constitute a breach of this Lease. The intent of this Section is that Tenant will not compete with Landlord in the leasing of parking spaces to other owners/tenants of buildings in or about the Alexandria Tech Center.

20. SEVERABILITY. If any provision in this Lease is found to violate any law, only the violating provision will be invalid and all other provisions of this Lease will remain in full force and effect.

21. TERMINATION DUE TO APPROPRIATION. Lessee's continued occupancy of the Premises for the full term is dependent upon the appropriation of funds for leasing of the Premises at the beginning of each fiscal year of the City of Alexandria. In the event that funds are not appropriated for the leasing of the Premises, Tenant shall furnish Landlord with a written notice that funds were not appropriated by the City of Alexandria. Tenant shall endeavor to furnish such written notice at least forty-five (45) days prior to the end of the then current fiscal year. In the event that funds are not appropriated for the leasing of the Premises, then this Lease shall become null and void and this Lease shall terminate at the end of the then current fiscal year. In such event, Tenant shall vacate the Premises prior to the beginning of the next City of Alexandria fiscal year.

22. RECEIPT OF LEASE. The Tenant acknowledges that Tenant has read the provisions contained in this Lease and has received an executed copy of this Lease Agreement.

**IN WITNESS WHEREOF**, the parties hereto have executed this Lease under their respective seals, this \_\_\_\_ day of November 2003.

LANDLORD:  
ALEXANDRIA TECH CENTER ASSOCIATES LLC  
a Virginia Limited Liability Company

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

9

Name: \_\_\_\_\_

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

TENANT:  
CITY OF ALEXANDRIA,  
a Virginia Municipal Corporation

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

Name: Philip Sunderland

Title: City Manager

ATTACHMENT 3  
**Alexandria Public Safety Center**

**BACKGROUND:** A committee of representatives from the City Manager's Office, Police Department, Sheriff's Office, Magistrate, and General Services Department began meeting in May 2001 to assess conditions affecting the current and future use of the Public Safety Center (PSC). The committee reviewed the first floor slab settlement, crowded working conditions, inadequate parking, and development impacts associated with the construction of the Woodrow Wilson Bridge Mill Road express ramps (to be constructed through the parking lot of the PSC) and the impacts of the development associated with the East Eisenhower Valley plan. The City hired the consulting firm Camp Dresser, and Mckee (CDM) to assess and monitor the first floor slab settlement and review the current space usage. The committee identified a number of important elements and facts related to the current and future requirements of the Police, Sheriff, Magistrate and use of the existing facility.

First, as a result of the unstable soil under the Police building and part of the Sheriff/Magistrate area, the first floor slab has cracked and settled to the point that major corrective action is necessary. While the building is structurally sound, major work needs to be done to correct the problems with the slab. Second, the existing building does not meet either the current or future space needs of the user agencies. Third, parking at the facility is not adequate. Lastly, access to and egress from the facility is difficult and is projected to worsen as Eisenhower Avenue development continues.

Repairs to the first floor slab will cause major disruption to the current operations, requiring large portions of the first floor to be vacated for the demolition and removal of the existing concrete slab. The committee recommended that the repairs could be delayed until interim space could be found to accommodate the identified units of the Police (CIS, Patrol, Administration and others) during the course of the construction.

The consultant conducted a comprehensive space study to define current, short-term, and longer term space requirements. The conclusions of the study revealed that the PSC did not have adequate space to meet current staffing levels and storage needs of the Police, Sheriff, and Magistrate. The PSC opened in 1987 with 490 employees. Since then, the staff population has increased by thirty percent (30%) to 635 employees. The building was designed before the current extensive use of personal computers and specialized equipment. Areas originally designed for storage, conference rooms, and lobby areas have been converted to office space. The Sheriff's Office has converted a part of the first floor prisoner detention areas into office space. An independent review of future police staffing needs was conducted by the International Association of Chiefs of Police (IACP). The study confirmed an immediate space need of nearly 55,000 square feet for the Police Department. The IACP review also said the potential space deficit would rise to 60,558 square feet by 2005. The table below summarizes the current and future space deficiencies.

	<b>Existing Space (SF)</b>	<b>Required 2002</b>	<b>Projected 2005</b>
Police	39,636	87,172	91,844
Sheriff Staff	14,453	30,936	331,936
Magistrate	857	921	950
Shared Functions	9,226	-	-
<b>Total</b>	<b>64,172</b>	<b>119,029</b>	<b>124,730</b>

The team also reviewed the current and future impacts of the build out of the East Eisenhower Valley Plan and construction of the Woodrow Wilson Bridge Mill Road Express ramps through the PSC property. They determined that the greatest impacts will be to the PSC parking lot and to access to and egress from the facility.

The East Eisenhower Valley traffic study projects that the current traffic problems in the area will become much worse as approximately 17,000 trips per day are added to the Eisenhower Valley street network. By 2010 the projections increase to more than 44,377 trips/day, even after trip reduction measures have been implemented. This increased traffic will greatly impact the ability of the Police to respond to calls for service, particularly during the evening and morning rush hour.

Parking at the PSC has been impacted by growth in the number of staff and fleet vehicles, the construction of the WWB Mill Road express ramps, and additional security measures. When the PSC opened, a total of 395 parking spaces was barely adequate for the employees and the fleet. Since then, the peak parking demand has increased to 567 and 50 parking spaces have been lost as a result of security measures and bridge construction for a new total of 345 spaces, resulting in a deficit of 222 parking spaces. This deficit will increase significantly during periods of construction beginning with the overhead transmission line relocation scheduled to begin in late fall. Construction activity will eliminate between 50 and 200 parking spaces at any given time, seriously disrupting operations. In mitigating the current parking deficit, the City has entered into a lease with the American Trucking Association for fifty surface spaces, included a provision in the current lease to have use of 160 parking spaces at 2034 Eisenhower Avenue prior to occupancy in January, and required employees to use the Mill Road median as overflow parking.

City staff recommended and Council approval a capital project that would allow for construction of a new 108,500 square foot Police facility by about FY 2010 and meeting a short-term lease requirement (until the new facility is completed) of approximately 55,000 square feet of office space for defined Police programs. The Police Department would continue to house a portion of its operations in the PSC, but the current severe overcrowding would be addressed by the leased space. These projects were approved and included in the FY 2004 budget and the FY 2004 - FY 2009 Capital Improvement.

The committee is working on identifying a site for a new Police Department facility that will meet the future needs of the department that have been identified, and we will be discussing this with Council as this work progresses.



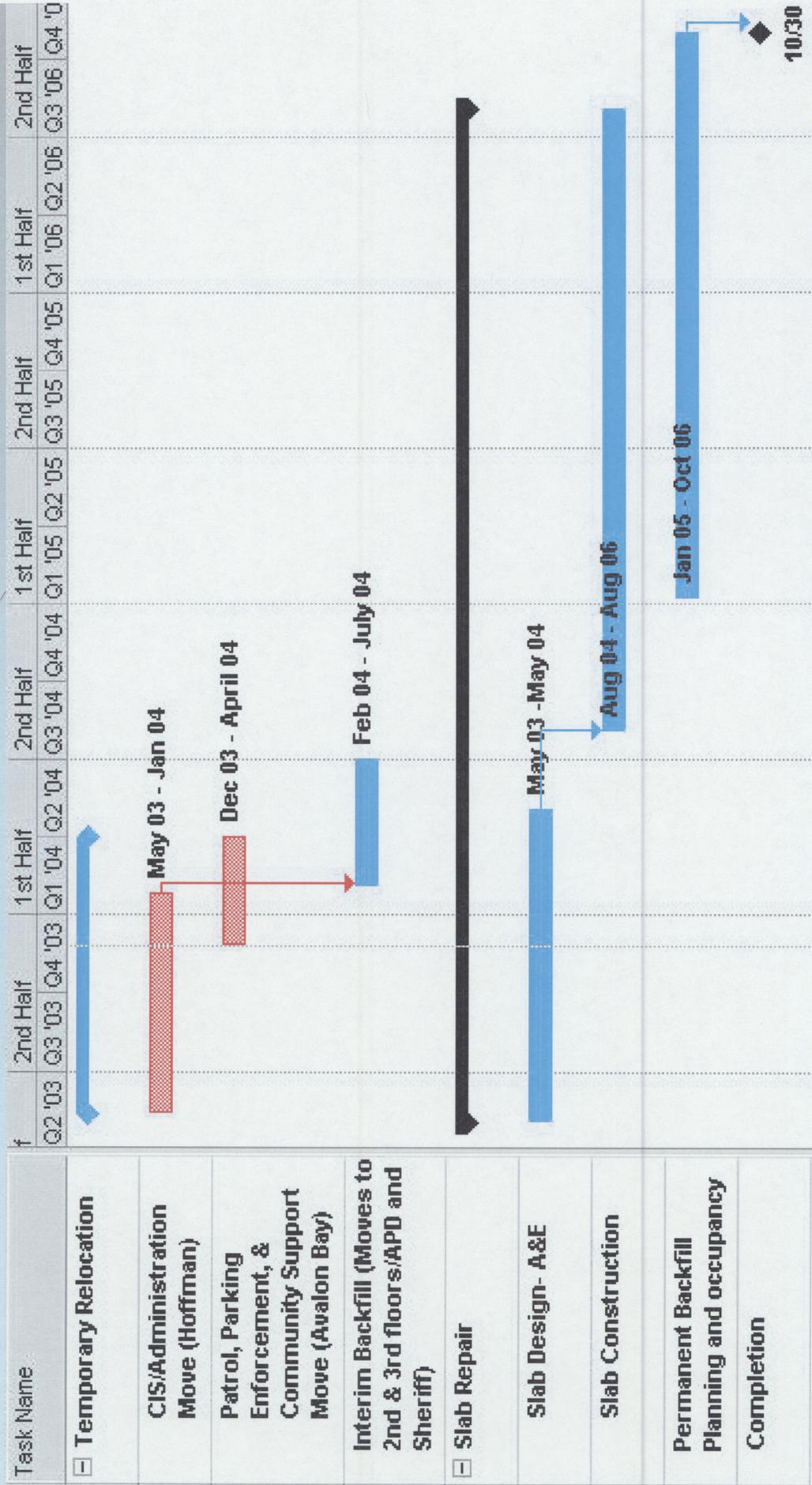
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# Proposed Leases for Office Space and Parking

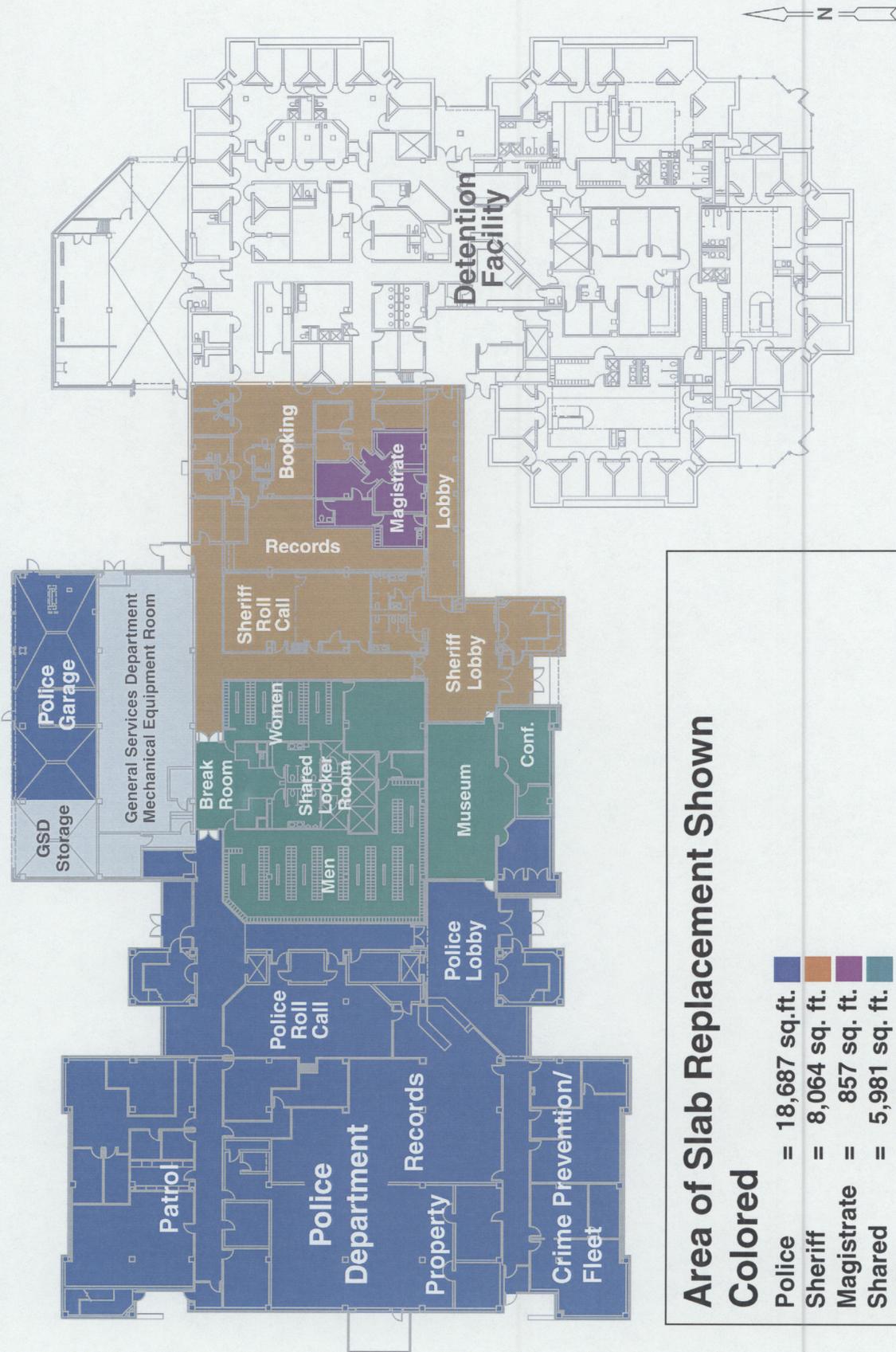
Alexandria Police Patrol, Parking Enforcement, and  
Community Support Units

# PSC 1<sup>st</sup> Floor Slab Replacement Project

## Schedule of Activities



# Project Area Plan



## Area of Slab Replacement Shown

### Colored

Police	= 18,687 sq. ft.
Sheriff	= 8,064 sq. ft.
Magistrate	= 857 sq. ft.
Shared	= 5,981 sq. ft.
GSD	= 2,357 sq. ft.
<b>Total</b>	<b>= 35,946 sq. ft.</b>

# Project Budgets

Activity	Available	FY04	FY05	FY06	FY07	FY08	FY09	FY10	Total
<b>New Facility</b>									
Site Selection/Acquisition		\$16,610							\$16,610
Design				\$2,130	\$2,190	\$,050	\$0,470		\$4,840
Construction					\$,520	\$43,120	\$0,320		\$43,960
Move									
Subtotal		\$16,610		\$2,130	\$2,710	\$43,170	\$0,790		\$65,410
<b>Temporary Relocation</b>									
Design		\$0,050							\$0,050
Construction		\$3,519							\$3,519
Move		\$0,050							\$0,050
Subtotal		\$3,619							\$3,619
<b>Slab Settlement &amp; Repair</b>									
Design	\$1,456	\$0,040	\$0,220						\$1,716
Construction	\$3,831		\$2,063						\$5,894
Subtotal	\$5,287	\$0,40	\$2,283						\$7,610
<b>Total</b>	<b>\$5,287</b>	<b>\$20,269</b>	<b>\$2,283</b>	<b>\$2,130</b>	<b>\$2,710</b>	<b>\$43,170</b>	<b>\$0,790</b>		<b>\$76,639</b>

**Grand Total \$76,639**