

## City of Alexandria, Virginia

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## MEMORANDUM

DATE: JANUARY 8, 2003

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*

SUBJECT: CONSIDERATION OF A LEASE FOR FIFTY (50) PARKING SPACES AT  
2200 MILL ROAD

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**ISSUE:** Consideration of a lease for the rental of 50 parking spaces at 2200 Mill Road (American Trucking Association) for use by the Alexandria Police Department, the Alexandria Office of Sheriff and other Alexandria Public Safety Center user agencies.

**RECOMMENDATION:** That City Council authorize the City Manager to execute, on behalf of the City, the attached lease between the City and American Trucking Association for property at Mill Road (Attachment 1), in substantially the form presented to Council, and acknowledge that the execution of the lease by the City Manager shall constitute conclusive evidence of City Council approval of the lease.

**BACKGROUND:** Over the next several years, the available on-site parking at the Public Safety Center will be greatly reduced due to construction activities associated with the Woodrow Wilson Bridge/Mill Road express ramps. Anticipated construction impacts in 2003 include piles and foundation work for 170 foot high transmission towers, erection of the towers, removal of the existing towers, and pulling of transmission lines by Dominion Virginia Power. We expect that these activities will occur consecutively throughout the year and will impact parking for employees and visitors throughout the year. Beginning in 2004, construction for the foundations, piers, and superstructure for the Eisenhower/Mill Road express ramps is scheduled to take place over a three to four year period. At any given time, substantial numbers (it is difficult to estimate the total number of spaces to be lost at a specific point in time, since we do not have construction means and methods detailed at this point) of employee and visitor parking spaces will be eliminated, and there is an anticipated negative impact to entrance and egress to the site. Currently, on site parking is severely restricted due to the recently completed security improvements and the number of employees currently assigned to work at the facility. A survey completed in 2002 indicated a shortfall of 122 parking spaces based on the number of employees assigned to the facility at that time.

**DISCUSSION:** The American Trucking Association has agreed to provide 50 contiguous surface parking spaces to provide immediate relief to the PSC users. The 50 spaces are located in a separate area of the ATA surface parking lot adjacent to the beltway. Prior to entering into

negotiations with the landlord to lease the 50 proposed parking spaces, staff researched the availability of parking along Mill Road and Eisenhower Avenue that were within a five minute walk, contiguous for easy control, and could be provided at a fair market price. The American Trucking Association parking lot was the sole property that could best meet the parking requirement.

Under the proposed lease the City would lease the 50 designated parking spaces for an initial five-year term beginning immediately after the approval of the lease. The City will have the option to renew the lease for two additional one-year terms upon 60 days written notice.

**FISCAL IMPACT:** The first twelve months of base rent for the parking spaces will total \$39,000 or \$65 per space monthly. Rent will be increased two percent (2%) per annum. Funds will be included in the FY 2004 Police Department operating budget. The Police Department will be the primary occupant/user of the 50 additional parking spaces.

**ATTACHMENT:**

Attachment 1: Draft Lease Agreement

**STAFF:**

Edward Mandley, Director, Department of General Services

Peter Geiling, Deputy Director, Department of General Services

DEED OF LEASE

THIS DEED OF LEASE ("Lease") is made effective as of the 1<sup>st</sup> day of February, 2003, by and between AMERICAN TRUCKING ASSOCIATIONS, INC., a District of Columbia nonprofit corporation (the "Lessor") and CITY OF ALEXANDRIA, a municipal corporation of the Commonwealth of Virginia (the "Lessee"), upon and in consideration of the terms, covenants and conditions contained in this Lease and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

WITNESSETH:

1. DEMISED PREMISES.
  - (A) Lessor hereby leases and demises unto Lessee, and Lessee hereby leases from Lessor, fifty (50) parking spaces designated for Lessee in the surface parking areas on the land located at 2200 Mill Road, Alexandria, Virginia 22314 (the "Property"), more particularly shown on Exhibit A attached hereto (the "Demised Premises"), together with the right to use in common with others drive aisles and driveways to access the Demised Premises, but excluding any structures or other improvements or other reserved parking spaces located at the same address.
  - (B) Provided that Lessee fully and timely performs all the terms of this Lease on Lessee's part to be performed, including payment by Lessee of all rent, Lessee shall peaceably and quietly have, hold and enjoy the Demised Premises during the term of this Lease without hindrance, disturbance or molestation.
  - (C) Lessee shall have access to the Demised Premises twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year.
2. INITIAL TERM OF LEASE. The Demised Premises are leased to Lessee for a period of five (5) years, beginning on February 1, 2003, and terminating on January 31, 2008 (the "Initial Term"). The Lease Commencement Date shall be February 1, 2003.
3. BASE RENT. Lessee covenants to pay Lessor the sum of Thirty-Nine Thousand and No/100 Dollars (\$39,000.00) as rent for the first year of the Initial Term, which amount shall be paid without any abatement, setoff or deduction whatsoever, except as specifically set forth in this Lease, in twelve (12) installments of Three Thousand Two Hundred Fifty and No/100 Dollars (\$3,250.00) due and payable on the first day of each calendar month during the first year of the Initial Term.
4. RENT INCREASE. Commencing on the first day of each additional year after the first year of the Initial Term, Lessee covenants to pay Lessor rent in an amount equal to the

sum of (i) the rental rate then in effect, plus (ii) the rental rate then in effect multiplied by two percent (2%). This increased rent shall similarly be paid without any abatement, setoff or deduction whatsoever, except as specifically set forth in this Lease, in twelve (12) equal monthly installments due and payable on the first day of each calendar month during such year of the Initial Term.

5. **PURPOSE AND USE OF DEMISED PREMISES.** The Demised Premises are leased to be used as parking spaces for vehicles owned, leased or used by the Lessee or Lessee's employees. Lessee agrees to take good care of the Demised Premises, and abide by Lessor's Rules and Regulations attached hereto as Exhibit B. In the event of inconsistencies between the terms of this Lease and the Building Rules and Regulations, the terms of this Lease shall control. References in the Building Rules and Regulations (a) to "Landlord" shall be deemed to refer to Lessor, (b) to "Tenant" shall be deemed to refer to Lessee, (c) to "Premises" shall be deemed to refer to the Demised Premises, and (d) to the "Lease Agreement" shall be deemed to refer to this Lease.
6. **DELIVERY OF POSSESSION.** Lessor covenants to deliver possession of the Demised Premises at the commencement of the Initial Term in "as-is" condition.
7. **MAINTENANCE.**
  - (A) Lessor covenants to keep, repair and maintain, at Lessor's expense, the Demised Premises in good repair, condition and working order, suitable to the use for which Lessee has leased same, during the Initial Term and any renewal terms. Such repair and maintenance includes, but is not limited to, repair of potholes and restriping lines for parking spaces. If necessary, Lessor shall make such alterations, additions and/or modifications of the Demised 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 Lessor fails to keep, repair and maintain the Demised Premises in good repair, condition and working order as provided in subparagraph 7(A), and such failure continues for more than fifteen (15) days after written notice from Lessee (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 Lessor 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 Lessee, 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, at Lessor's expense, so as to render the Demised Premises suitable for the use for which same are leased, in which event, Lessee may deduct the cost

of same from future rent installments as they become due and/or may collect such cost from Lessor in any manner provided by law.

- (C) Lessor covenants to keep and maintain the Demised Premises free of any adverse environmental condition which is deemed hazardous to the health or safety of persons entering the Demised Premises. Lessor covenants to indemnify, defend and hold the Lessee 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 Demised Premises.

8. LESSOR'S ACCESS AND SECURITY.

- (A) Lessor may, during any reasonable time or times, upon 24 hours prior notice to Lessee, enter upon the Demised Premises for the purpose of inspecting the same. In case of emergency, Lessor may enter upon the Demised Premises without prior notice.

- (B) Lessee, at Lessee's expense, may erect such security measures as it deems necessary or appropriate to limit access to the Demised Premises to Lessee and Lessee's employees, provided that any such measures shall not unreasonably interfere with Lessor's use of the Property and shall require the prior written consent of Lessor, which consent shall not be unreasonably withheld, conditioned or delayed.

9. CONSTRUCTION. If at any time during the Initial Term or any renewal term of this Lease any of the parking spaces that comprise the Demised Premises are unavailable for use by Lessee and its employees due to construction by either Lessor or other parties authorized by Lessor, Lessor shall make available to Lessee elsewhere on the site the number of parking spaces necessary to ensure that Lessee and its employees, at all times, have available for their use fifty (50) parking spaces (plus such additional number of spaces which Lessee has leased as a part of the Expansion Space). Any such alternative spaces shall remain available for use by Lessee and its employees until such time as the Demised Premises are again made available to Lessee and its employees. In the event Lessor is unable to make available fifty (50) parking spaces (plus such additional number of spaces which Lessee has leased as a part of the Expansion Space), then, at Lessee's option, (a) this Lease shall terminate effective as of a date designated by Lessee in a written notice to Lessor, or (b) rent under this Lease shall be decreased, during the period of unavailability, by an amount equal to (x) the number of parking spaces which are not available to Lessee and its employees multiplied by (y) the quotient of (i) the then current base rent under this Lease divided by (ii) the then current number of parking spaces leased by Lessor to Lessee under this Lease.

10. **INSURANCE.** Lessor agrees to obtain and maintain in effect at all times, fire and extended coverage insurance (or broader insurance coverage) insuring the Demised Premises. Such insurance shall be issued by an insurance company licensed to do business in the Commonwealth of Virginia.
11. **INDEMNIFICATION.** To the extent permitted by law, Lessee hereby indemnifies and holds harmless Lessor, its respective officers, directors, agents and employees, against any and all claims, liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees) arising out of, or resulting from, the occupancy or use by Lessee of the Demised Premises or any part thereof, unless caused by or due to the sole negligence or willful misconduct of Lessor, its agents or employees.
12. **DAMAGE OR DESTRUCTION OF DEMISED PREMISES.**
  - (A) If the Demised Premises are damaged by fire or other casualty so as to render same, in the reasonable opinion of Lessee, untenable for the use for which Lessee has leased same, this Lease, and all obligations hereunder, shall immediately terminate upon Lessee's giving notice of that fact to Lessor.
  - (B) If the Demised Premises are damaged by fire or other casualty, but not so as to render same untenable, in the reasonable opinion of Lessee, for the use for which Lessee has leased the Demised Premises, upon being so notified by Lessee, Lessor shall repair and restore within a reasonable time, at Lessor's expense, the Demised 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 Demised Premises rendered untenable for Lessee by the fire or other casualty.

If Lessor fails to make or fails to complete repair and restoration of the Demised Premises within a reasonable time after Lessee provides notice pursuant to subparagraph 12(B), then Lessee, at its option, may immediately terminate this Lease and all obligations hereunder.
13. **CONDEMNATION.** In the event that all or substantially all of the Demised Premises is taken or condemned by condemnation or conveyance in lieu thereof, or if only a portion of the Demised Premises is condemned and Lessee deems the remainder of the Demised Premises untenable for the use for which Lessee has leased same, the term hereof shall cease and this Lease shall terminate on the earlier of the date the condemning authority takes possession or the date title vests in the condemning authority; provided, however, in the event Lessor makes available to Lessee elsewhere on the site the number of parking spaces necessary to ensure that Lessee and its employees, at all times, have available for their use fifty (50) parking spaces, such spaces shall be deemed substituted in the place of that portion of the Demised Premises taken or condemned by condemnation or conveyance in lieu thereof, and this Lease shall not terminate.

14. ASSIGNMENT AND SUBLEASE. Lessee shall not sublet the Demised Premises or any part thereof or transfer possession or occupancy thereof to any person, firm or corporation or transfer or assign this Lease without the prior written consent of Lessor, nor shall any subletting or assignment thereof be effected by operation of law or otherwise than by the prior written consent of Lessor.
15. SUBORDINATION, NONDISTURBANCE AND ATTORNMENMENT. This Lease is and shall remain subject and subordinate to all mortgages, deeds of trust, ground or underlying leases which may now affect the real property of which the Demised Premises are a part, provided that the party to any such mortgage, deed of trust, ground or underlying lease, other than Lessor, enters into a non-disturbance agreement with Lessee, pursuant to which such party consents to, and recognizes, Lessee's right to continue to occupy the Demised Premises under the terms of this Lease so long as Lessee is not in default hereunder.
16. RENEWAL OF LEASE.
  - (A) Lessee may extend this Lease for two (2) additional renewal terms of one (1) year each by Lessee's giving written notice thereof to Lessor no later than sixty (60) days prior to the expiration of the Initial Term or renewal term, as applicable. Such renewal term shall commence immediately upon the expiration of the Initial Term or renewal term, as applicable, and upon exercise of such renewal option the expiration date of this Lease shall automatically become the last day of such renewal term.
  - (B) Rent for each renewal term shall be equal to the sum of (i) the rental rate then in effect, plus (ii) the rental rate then in effect multiplied by two percent (2%).
  - (C) Except as set forth herein, the leasing of the Demised Premises for each renewal term shall be upon the same terms and conditions as are applicable for the Initial Term or renewal term, as applicable, and shall be upon and subject to all of the provisions of this Lease.
17. TERMINATION DUE TO APPROPRIATIONS. Lessee's continued occupancy of the Demised Premises for the full term is dependent upon the appropriation of funds for the leasing of the Demised 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 Demised Premises, Lessee shall furnish Lessor with a written notice that funds were not appropriated by the City of Alexandria. Lessee 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 Demised 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, Lessee shall vacate the Demised Premises prior to the beginning of the next City of Alexandria fiscal year.

18. SURRENDER. Upon the expiration or earlier termination of this Lease, Lessee shall peacefully vacate and surrender the Demised Premises to Lessor in good order and in the same condition as at the beginning of the Initial Term, reasonable wear and tear and damage by casualty excepted.
19. EXPANSION SPACE.
  - (A) Throughout the term of this Lease, as extended, Lessee shall also have the right of first opportunity to lease additional parking spaces in the surface parking areas on the Property ("Expansion Space"), such right of first opportunity to be governed by the provisions hereinafter set forth.
  - (B) If the Expansion Space (as defined above) or a portion thereof shall become Available (as hereinafter defined), Lessor shall give Lessee written notice of such availability. The Expansion Space or the applicable portion thereof shall be deemed "Available"(i) with respect to parking spaces currently leased to third parties, upon the expiration or earlier termination of all leases, expansion rights, renewal options or other rights or interests in same held by third parties from time to time, and (ii) with respect to parking spaces currently used by Lessor, at such time as Lessor determines to lease such space to a third party.
  - (C) Rent for the Expansion Space (or the applicable portion thereof) shall equal (x) the number of parking spaces included in the Expansion Space (or the applicable portion thereof) multiplied by (y) the quotient of (i) the then current base rent under this Lease divided by (ii) the then current number of parking spaces leased by Lessor to Lessee under this Lease.
20. NOTICES. All notices, demands, or other communications that may be necessary or proper hereunder shall be deemed duly given if personally delivered upon delivery (or at such time as delivery is not accepted by the intended recipient), when deposited with Federal Express or other reputable overnight delivery service, when deposited in the United States mail, postage prepaid, first class, registered or certified, return receipt requested, or when sent by facsimile with a confirmation of receipt, addressed respectively as follows:

Lessor: American Trucking Associations, Inc.  
2200 Mill Road  
Alexandria, Virginia 22314  
Attn: Chief Operating Officer  
Fax Number: (703) 548-1940



with a copy to: American Trucking Associations, Inc.  
2200 Mill Road  
Alexandria, Virginia 22314  
Attn: Director of Administration  
Fax Number: (703) 548-1940

Lessee: City of Alexandria  
Department of General Services  
421 King Street  
Suite 200  
Alexandria, Virginia 22314  
Attn: Director of General Services  
Fax Number: (703) 519-3332

Any party hereto may change its address for notice purposes hereunder by delivering written notice thereof to the other parties in accordance with the foregoing provisions.

21. **BINDING UPON SUCCESSORS AND ASSIGNS.** This Lease shall be binding upon the parties hereto and their successors and their successors and permitted assigns.
22. **ENTIRE AGREEMENT.** This Lease constitutes the entire, full and complete understanding and agreement of the parties, and all representations, conditions, statements, warranties, covenants, promises or agreements previously made or given by either party to the other are hereby expressly merged into this Lease and shall be null, void and without legal effect.
23. **SEVERABILITY.** Every agreement contained in this Lease is, and shall be construed as, a separate and independent agreement. If any term of this Lease or the application thereof to any person or circumstance shall be invalid or unenforceable, the remaining agreements contained in this Lease shall not be affected.
24. **MODIFICATION.** This Lease shall not be modified, altered or amended except by written agreement executed by the parties hereto with the same formality as this Lease.
25. **PARAGRAPH HEADINGS.** Headings to the paragraphs are mere catchwords and are illustrative only; they do not form a part of this Lease nor are they intended to be used in construing same.
26. **WAIVER OF TRIAL BY JURY:** Lessor and Lessee each hereby waive all right to trial by jury in any matter arising out of or in any way connected with this Lease.
27. **GOVERNING LAW:** This Lease shall be governed by and construed under the laws of the Commonwealth of Virginia, without reference to its conflicts of laws principles.

28. EXECUTION: This Lease shall not be effective or binding unless and until signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their duly authorized representatives.

LESSOR:

AMERICAN TRUCKING ASSOCIATIONS, INC.,  
a District of Columbia nonprofit corporation

By: \_\_\_\_\_  
David B. Barefoot,  
Chief Operating Officer

LESSEE:

CITY OF ALEXANDRIA, a municipal corporation  
of the Commonwealth of Virginia

By: \_\_\_\_\_  
Philip Sunderland,  
City Manager