



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of December 9, 2006**

DATE: November 13, 2006

SUBJECT: Approval of First Amendment to Lease Agreement between Culpepper Garden I, Inc. and The County Board of Arlington County, Virginia at Culpepper Garden Apartments, 4435 North Pershing Drive, Arlington, Virginia, RPC #20024238.

C. M. RECOMMENDATIONS:

1. Approve the attached First Amendment to Lease Agreement between Culpepper Garden I, Inc. and The County Board of Arlington County, Virginia at Culpepper Garden Apartments, 4435 North Pershing Drive, Arlington, Virginia, RPC #20024238.
2. Authorize the Real Estate Bureau Chief, or his designee to execute, on behalf of the County Board, the First Amendment, and all related documents, subject to approval as to form by the County Attorney.

ISSUES: None.

SUMMARY: Following County Board approval and proper execution of the First Amendment to Lease Agreement, the County may continue to occupy its leased premises in the basement of Culpepper Garden Apartments at 4435 Pershing Drive.

BACKGROUND: Staff finalized the negotiation of the First Amendment to extend the term of the Lease dated December 20, 2000, for Culpepper Garden Senior Center ("Senior Center").

DISCUSSION: The attached First Amendment has been structured to provide a commercially viable agreement to protect the County's rights and needs as a local government so that the County may continue to occupy its leased premises. Some of the pertinent provisions of the First Amendment are as follows:

- The leased premises consist of the total of 9,951 square feet.
- The extended term commences on January 1, 2007, and expires on December 31, 2011.

County Manager: _____

County Attorney: _____

Staff: Betsy Herbst/Linda DePersis, DES, Real Estate Bureau

FISCAL IMPACT: The cost for Base Rent and related operational expenses will be approximately \$61,170 for CY2007. The funds were included in the FY2007 adopted budget and will also be part of the proposed FY2008 budget for the Department of Parks, Recreation & Cultural Resources.

FIRST AMENDMENT TO LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE AGREEMENT (“First Amendment”) is made this ____ day of _____, 2006, by and between, **CULPEPPER GARDEN I, INCORPORATED**, a Virginia non-profit corporation, (“Lessor”) and **THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body corporate, (“Lessee”) (jointly “Parties”).

WITNESSETH:

WHEREAS, Lessor is the owner of the property described as Parcel A1, Resubdivision of Parcel A, Culpepper Garden, Arlington, Virginia, and known as 4435 North Pershing Drive, Arlington, VA 22203 (“Property”);

WHEREAS, the Parties entered into that certain Lease Agreement dated December 20, 2000 (“Original Lease”), pursuant to which Lessee leased certain space in the basement of the building on the Property containing approximately 8,240 square feet as designated on the floor plan attached to the Original Lease (“Leased Premises”), along with the right to jointly use approximately 1,711 square feet designated as joint use area (“Joint Use Area”) on the said floor plan.

WHEREAS, the Original Lease provides that by mutual agreement of Lessor and Lessee, the Original Lease may be extended for an additional term of five years on the same terms and conditions contained therein;

WHEREAS, by letter dated March 20, 2006, to the Lessor, the Lessee provided notice of its election to exercise its option to renew the Lease for a five-year term, commencing on January 1, 2007 and expiring on December 31, 2011, as defined below;

WHEREAS, by letter dated November 20, 2006, to Lessee, a copy of which is attached as Exhibit A, the Lessor agreed to renew the Lease for an additional five-year term, commencing on January 1, 2007 and expiring on December 31, 2011, under the same terms and conditions of the Original Lease;

WHEREAS, the Parties hereto desire to amend the term of the Original Lease by means of this First Amendment;

WHEREAS, the Original Lease as amended by the First Amendment is hereinafter referred to collectively as the “Lease, as Amended”; and

NOW THEREFORE, the Parties hereto agree as follows: For and in consideration of the sum of One Dollar (\$1.00), the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties amend the Original Lease as set forth in this First Amendment:

1. Term: Section 1 of the Original Lease is hereby amended by deleting the entire section and replacing in its stead:

“The Term of this Lease shall be for five (5) years and shall commence on January 1, 2007, and expire at 12:00 midnight on December 31, 2011 (“Extended Term”).

2. Effect of First Amendment on Lease: Except as modified herein, all other terms and conditions of the Lease, as Amended, remain in full force and effect. In the event the terms and conditions of this First Amendment conflict with the terms of the Original Lease, the terms and conditions of this First Amendment shall prevail and be controlling.

IN WITNESS WHEREOF, the Parties hereto have caused multiple counterparts of this First Amendment to be signed in their respective names by their respective authorized officers, effective as of the later of the dates set forth below.

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

By: _____
Uri Arkin, Real Estate Bureau Chief

Date: _____

STATE OF _____:

CITY/COUNTY OF _____:

The foregoing instrument was acknowledged before me this ____ day of _____, 2006, by _____ as _____ of THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA.

Notary Public

My commission expires: _____

LESSOR: CULPEPPER GARDEN I, INCORPORATED

By: _____

Printed Name: _____

Title: _____

Date: _____

STATE OF _____:

CITY/COUNTY OF _____:

The foregoing instrument was acknowledged before me this _____ day of _____, 2006, by _____ as _____ of CULPEPPER GARDEN I, INCORPORATED, on behalf of said corporation.

Notary Public

My commission expires: _____

Approved as to Form:

County Attorney



DEPARTMENT OF ENVIRONMENTAL SERVICES
Real Estate Bureau
2100 Clarendon Blvd., Suite 900, Arlington, VA 22201
TEL 703-228-3688 FAX 703-228-3789 www.idepersis@arlingtonva.us

March 20, 2006

Certified Mail

Mr. Tim Durrer, Executive Director
ARCH Culpepper Garden
4435 N. Pershing Drive
Arlington, VA 22203

Re: 4435 N. Pershing Drive, Arlington, VA 22203 ("Property")

Dear Mr. Durrer:

Pursuant to the Lease, dated December 20, 2000, ("Lease") by and between Culpepper Garden I, Inc. ("Landlord") and The County Board of Arlington County ("County" or "Tenant"), please note the following:

Section 1. TERM. The County, as Tenant, is exercising its right to extend the term for 5 years for the Property.

Section 16. NOTICES. Tenant's original notification address is hereby deleted and replaced, in its stead, with following addresses:

To Tenant: The County Board of Arlington County, Virginia
2100 Clarendon Boulevard, Suite 300, Arlington, Virginia 22201

with a required copy to: Arlington County, Virginia,
2100 Clarendon Boulevard, Suite 302, Arlington, Virginia 22201
Attn: County Manager

with a required copy to: Arlington County, Virginia, Department of Environmental Services
Real Estate Bureau, 2100 Clarendon Blvd, Suite 900, Arlington, Virginia 22201
Attn: Real Estate Bureau Chief

with a required copy to: Arlington County, Department of Human Services, 3033 Wilson Blvd., Suite 300B,
Arlington, Virginia 22204 Attn: Director

If you should have any questions, please call me at (703) 228-3688. Thank you.

Sincerely,

Linda DePersis
Real Estate Specialist

cc: JEFF MARIN



Tim Durrer
 Executive Director
 tdurrer@culpeppergarden.org
 703-528-0162 Ext. 217

4435 N. Pershing Drive
 Arlington, VA 22203
 Fax: 703-524-3671
 VA Relay: 1-800-828-1120

November 20, 2006

Betsy Herbst
 Real Estate Specialist
 Department of Environmental Services
 Arlington County
 2100 Clarendon Boulevard
 Arlington, Virginia 22201

Dear Ms. Herbst:

Culpepper Garden I has received Arlington County's request to amend the Senior Center Lease Agreement. The Culpepper Garden Board of Directors and Management would like to reiterate our desire to work with Arlington County in continuing our mutually beneficial relationship with the Senior Center in a positive good faith manner. Arlington County Department of Human Services and the Culpepper Garden Board have worked together for many years in partnership to provide quality housing and services to the very low income elderly residents of Arlington County. Culpepper Garden is a non-profit retirement community financed through Housing and Urban Development. Culpepper Garden relies heavily on Federal and local subsidies from Arlington County and Housing and Urban Development in order to fulfill its mission to serve the low income seniors of Arlington County.

Based upon the number and magnitude of changes, Arlington County's request to adopt the First Amendment to the Lease Agreement is denied. At this time, the Board of Directors is willing to negotiate a new 5 year Lease Agreement incorporating mutually agreed upon revisions with an additional 5 year lease renewal option.

If Arlington County does not wish to enter into a new Lease Agreement, the current Lease Agreement will be in effect until its expiration on December 31, 2011. Please note that the Culpepper Garden Board of Directors will pursue a rent increase based on CPI and collection of past due rent in the amount of \$6,181.08 for the period January 1, 2001 to December 31, 2006 in accordance with paragraph 2 of the Lease Agreement. Based on review of the CPI since 2001, Arlington County's rent for FY06 is \$70,077.15. The rent will be increased based on CPI effective on July 1, 2007 and annually thereafter until the termination of the contract. Additionally, please note that Culpepper Garden did in fact upgrade the HVAC system in accordance with the original Lease Agreement with the addition of two 10 ton air conditioning units that were installed on or about July 2001. Based upon my meeting with Culpepper Garden's HVAC engineer, it was determined that these units are not



A Non-profit Retirement & Assisted Living Community



Culpepper Garden does not discriminate on the basis of handicapped status in the admission or access to, or treatment or employment in, it's federally assisted programs and activities.

properly functioning and repairs to the system will be made in accordance with the current Lease Agreement. Please also note the replacement of the boiler's mixing valve and addition of pneumatic controls in February 2005, has improved the performance and temperature control of the boiler in providing heat to the leased premises.

It is our desire to work with Arlington County to remedy the issues identified and we believe that the best option is to negotiate a new Lease Agreement to the benefit of both parties. Please contact me should you have any questions.

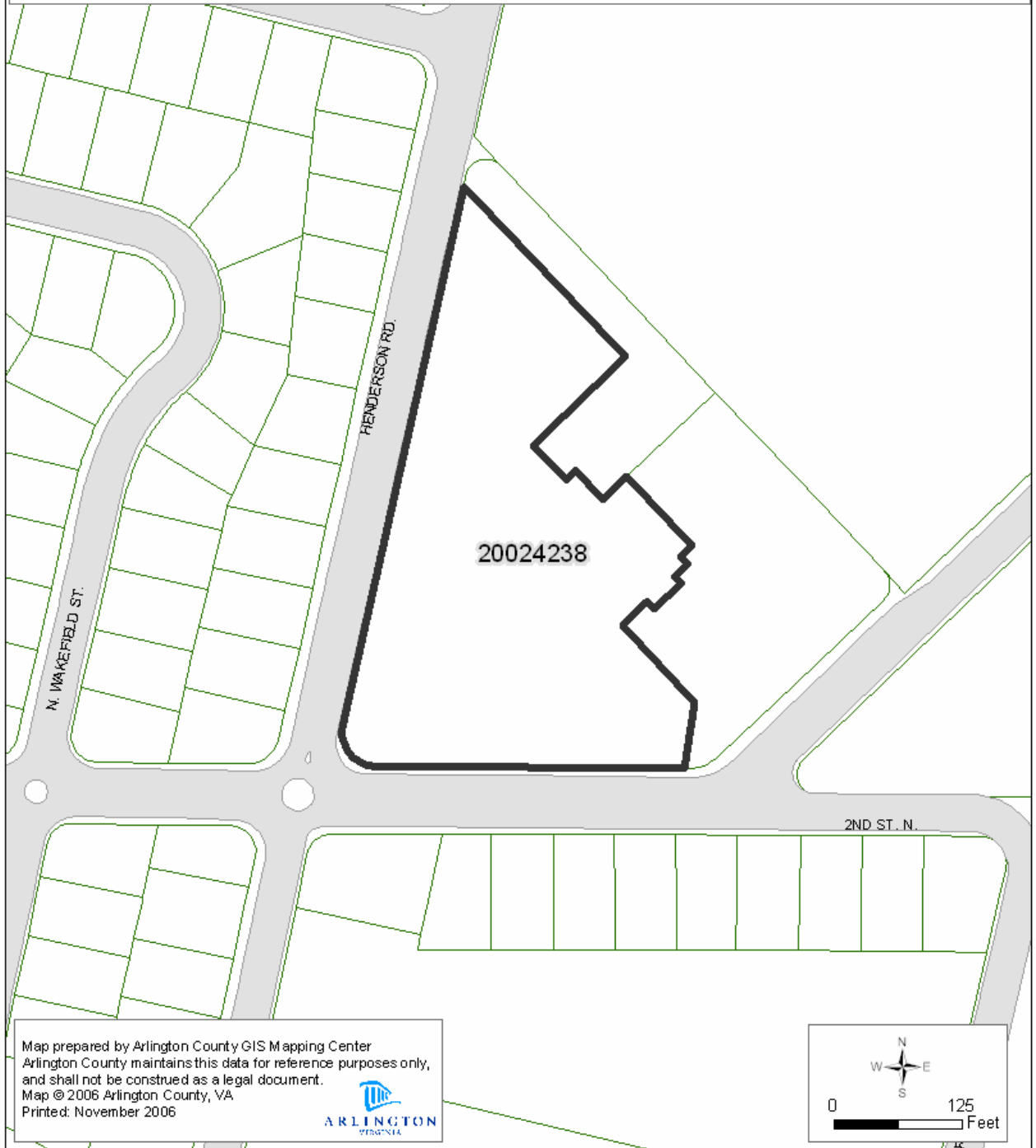
Sincerely,

Tim Durrer
Executive Director
Culpepper Garden

Cc: Tim O'Hora, Acting Real Estate Bureau Chief
Linda DePersis, Department of Environmental Services
Uri Arkin, Department of Environmental Services
Cheryl Johnson, Department of Parks and Recreation
Barbara Carro, Department of Parks and Recreation
Terri Lynch, Ageing and Disability Services Division
Elisabeth Vick, Culpepper Garden Senior Center Director
Ron Carlee, County Manager
Betty Boyd, CSM
Denise White, CSM

Attachment 1 Vicinity Map

4435 N. Pershing Drive
Culpepper Garden Sr. Center



Map prepared by Arlington County GIS Mapping Center
Arlington County maintains this data for reference purposes only,
and shall not be construed as a legal document.
Map © 2006 Arlington County, VA
Printed: November 2006

