



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of April 16, 2011

**DATE:** April 1, 2011

**SUBJECT:** Approval of a Lease Agreement between the County Board of Arlington County, Virginia, as Landlord, and Specialty Auto Body, Inc., trading as Mack's Auto Service, as Tenant, for real property and improvements located at 3929 5<sup>th</sup> Place N., Arlington, Virginia (RPC# 14-060-017).

#### C. M. RECOMMENDATION:

1. Approve the attached Lease Agreement between the County Board of Arlington County, Virginia, as Landlord, and Specialty Auto Body, Inc., as Tenant, for the lease of real property and improvements known as 3929 5<sup>th</sup> Place N., Arlington, Virginia (RPC# 14-060-017).
2. Authorize the Real Estate Bureau Chief, Department of Environmental Services, or his designee, to execute, on behalf of the County Board, the Lease Agreement, subject to approval as to form by the County Attorney.
3. Appropriate the rent payments (313.333501) from Specialty Auto Body, Inc. to the Parks, Recreation and Cultural Resources Pay-As-You-Go (PAYG) account (313.80001.697L).

**ISSUES:** This is a proposed Lease Agreement to allow the property's existing occupant time to relocate its business, which is necessary following the County Board's acquisition of the property in January 2011. No issues have been identified.

**SUMMARY:** The County Board acquired the property in January, 2011, pursuant to its power of eminent domain and an order of the Circuit Court of Arlington County, for use as a public park. Specialty Auto Body, Inc., trading as Mack's Auto Service ("Mack's") currently occupies the property without a lease. County staff, on behalf of the County Board, as landlord, and Mack's, as tenant, have reached an agreement regarding the terms and conditions of a lease which will allow Mack's to temporarily remain on the subject property while it seeks property to relocate its business. The proposed "Lease Agreement", attached as **Attachment 1**, would permit Mack's to remain in the property through January 31, 2012, while the County will complete the design and pre-construction work on the proposed public park partially located on

County Manager:

*BMD/mjs*

County Attorney:

*BRC*

*[Signature]*

35.

Staff: Lynne Porfiri, Real Estate Bureau

the subject property.

**BACKGROUND:** The property which is the subject of the Lease Agreement is the last of several parcels acquired for the first phase of Mosaic Park. The County Board has previously acquired adjacent parcels for Mosaic Park and recently accepted an additional 26,320 square feet, more or less, adjoining Mosaic Park through an exchange of property associated with the County Board's approval of the Founders Square project. The acquisition of the property is necessary to implement the recommendations of the Mosaic Park Master Plan, approved by the County Board at its regular meeting on September 26, 2009. Mosaic Park was designed to provide park and recreation amenities and open space for residents of the Ashton Heights, Buckingham, and Ballston/Virginia Square neighborhoods, as well as to daytime workers in the Ballston/Virginia Square section of Arlington.

The County Board acquired indefeasible fee simple absolute title to the property which is the subject of the Lease Agreement by Agreed Final Order entered January 21, 2011, in the case of *The County Board of Arlington County, Virginia v. Al Marshall, also known as Tunsall A. Marshall, et al.*, Circuit Court of Arlington County, Virginia, Case No. CL10001840-00. Mack's previous lease was terminated by its own terms when the County Board took possession of the property pursuant to the Agreed Final Order. Mack's currently occupies the property and operates an automotive repair facility there without a lease.

The location of the real property and improvements that are the subject of the Lease Agreement is more particularly shown on the Vicinity Maps attached to this report as **Attachments 2, 3 and 4**.

Legal and Physical Description: The legal description of the property is as follows:

All that certain piece or parcel of land with all its improvements and appurtenances thereunto belonging, situate, lying and being in Arlington County, Virginia, and being more particularly described as follows:

All of Lot Six (6), Spencer Roberts' Addition to Clarendon, as the same is duly dedicated, platted and recorded in Deed Book 251 at Page 521, among the land records of Arlington County, Virginia and further described as:

COMMENCING AT A PK NAIL FOUND AT THE INTERSECTION OF THE WESTERLY RIGHT OF WAY LINE OF NORTH POLLARD STREET AND THE NORTHERLY RIGHT OF WAY LINE OF 5<sup>th</sup> PLACE NORTH, MARKING THE SOUTHEASTERLY CORNER OF PART LOT 5, SPENCER ROBERTS' PROPERTY;

THENCE WITH SAID NORTHERLY RIGHT OF WAY LINE OF 5<sup>th</sup> PLACE NORTH TO THE POINT OF BEGINNING N 81° 57' 20" W, 125.00 FEET TO A 6" (SIX) INCH NAIL FOUND MARKING THE SOUTHEASTERLY CORNER OF LOT 6, SPENCER ROBERTS' ADDITION TO CLARENDON;

THENCE CONTINUING WITH THE SAID RIGHT OF WAY LINE OF 5<sup>th</sup> PLACE NORTH N 81° 57' 20" W, 50.00 FEET TO A PK NAIL FOUND MARKING THE SOUTHEASTERLY CORNER OF LOT 7, SPENCER ROBERTS' ADDITION TO CLARENDON;

THENCE WITH THE EASTERLY LINE OF SAID LOT 7 N 08° 02' 40" E, 107.68 FEET TO AN IRON PIPE FOUND IN A SOUTHERLY LINE OF A RESIDUE PORTION OF LOT 2, M. F. BIRCH ESTATE, MARKING THE NORTHEASTERLY CORNER OF LOT 7, SPENCER ROBERTS' ADDITION TO CLARENDON;

THENCE WITH THE SOUTHERLY LINE OF SAID RESIDUE PORTION OF LOT 2 S 81° 57' 20" E, 50.00 FEET TO A 6" (SIX) INCH NAIL FOUND MARKING THE NORTHEASTERLY CORNER OF THE AFOREMENTIONED LOT 6;

THENCE WITH THE EASTERLY LINE OF LOT 6, AND RUNNING WITH THE WESTERLY LINE OF A RESIDUE PORTION OF LOT 2, M. F. BIRCH ESTATE S 08° 02' 40" W, 107.68 FEET TO THE POINT OF BEGINNING.

CONTAINING 5,384 SQUARE FEET OR 0.1236 ACRES OF LAND.

**DISCUSSION:** Because Mack's has had difficulty locating a suitable space for relocation of its automotive repair business and because construction of Mosaic Park is not anticipated to begin until spring 2012, County staff and Mack's have reached a tentative agreement regarding the terms of the proposed Lease Agreement. During the Lease's term, Mack's will be responsible for monthly payments of rent, all maintenance and expenses relating to the property, the insurance for the contents and business personal property, and the real estate taxes for the property. In lieu of payment of relocation expenses, the County will pay to Mack's, after it fully and finally vacates the subject property, a lump sum of \$78,240, less any applicable setoffs as set forth by the terms of the Lease Agreement. The payment by the County to Mack's will be in full and final fulfillment of the County's payment of relocation benefits to Mack's due to its move.

The Lease Agreement has been signed on behalf of Mack's, and its counsel has delivered a check to the Real Estate Bureau, Department of Environmental Services, for the rent payments for February, March, and April, 2011.

**LEGAL NOTICE:** Public notice of the Board's consideration of the proposed Lease Agreement was given in accordance with the Code of Virginia. Notice was placed in the March 29, 2011, issue of the Washington Times for the County Board meeting on April 16, 2011.

**FISCAL IMPACT:** It is projected that the rent payments from Mack's will be collected, starting with the February 2011 payment through the January 2012 payment, and deposited into the Parks, Recreation and Cultural Resources PAYG account (313.80001.697L). These funds, if paid in full by Mack's, are expected to total \$78,240 and will be used by the County to pay Mack's a lump sum payment, up to \$78,240, in lieu of relocation benefits. Pursuant to the Lease Agreement, Mack's may terminate the Lease before January 2012. If that is the case, then the difference between the amount collected in rent and the amount paid to Mack's, if any difference, will be funded from other monies in the Parks, Recreation and Cultural Resources Pay-As-You-Go (PAYG) account (313.80001.697L).

**LEASE AGREEMENT**

This LEASE AGREEMENT ("Lease") is made and entered into this 1<sup>st</sup> day of February 2011, by and between the COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body corporate and politic (hereinafter referred to as "Landlord" or "County Board") and SPECIALTY AUTO BODY, INC., trading as MACK'S AUTO SERVICE, a Virginia corporation (hereinafter referred to as "Tenant").

WHEREAS, Landlord acquired indefeasible fee simple absolute title to the hereinafter described Leased Premises by Agreed Final Order entered January 21, 2011, in the case of *The County Board of Arlington County, Virginia v. Al Marshall, also known as Tunsall A. Marshall, et al.*, Circuit Court of Arlington County, Virginia, Case No. CL10001840-00; and recorded on January 26, 2011, among the land records of Arlington County, Virginia, in Deed Book 4435, at page 1569;

WHEREAS, Tenant's previous lease of the Leased Premises (between Juan Giniunans and Tunsall A. Marshall, as landlord, and Specialty Auto Body, Inc., as tenant, dated May 31, 2001, as amended by First Lease Addendum, dated March 1, 2005) by its terms terminated on January 21, 2011, when the County Board, (as Landlord under this Lease), took possession of the Leased Premises pursuant to the power of eminent domain;

WHEREAS, Tenant, as a tenant at sufferance, currently occupies the Leased Premises without a lease or any rights whatsoever; and

WHEREAS, Landlord and Tenant have reached an agreement regarding the terms of a lease, as described herein,

NOW, THEREFORE, for and in consideration of the right to occupy the Leased Premises, the payment of rent hereinafter described, and the mutual covenants herein contained, and other good and valuable consideration, the mutual receipt and legal sufficiency of which are hereby acknowledged by the parties, the Landlord does hereby lease unto the Tenant the Leased Premises under the terms and conditions as set forth below:

WITNESSETH:

1. LEASED PREMISES, TERM, BASE RENT, AND PAYMENT.

A. The leased premises is comprised of the real property and improvements thereon known as 3929 5<sup>th</sup> Place North, Arlington, Virginia, 22203 (RPC # 14-060-017), further described in **Exhibit A** attached hereto ("Leased Premises").

B. The term of this Lease shall be one (1) year ("Lease Term") commencing on the 1st day of February 2011 ("Lease Commencement Date") and ending at 11:59 p.m. Eastern Time on the 31st day of January 2012 ("Lease Termination Date"), unless terminated sooner as provided for in this Lease or by law.

C. The Tenant agrees to pay to Landlord monthly rent in the amount of Six Thousand Three Hundred Ninety-Two and 00/100 Dollars (\$6,392.00) for the calendar months February 2011 through May 2011, and monthly rent in the amount of Six Thousand Five Hundred Eighty-Four and 00/100 Dollars (\$6,584.00) for the calendar months June 2011 through January 2012 (collectively "Base Rent"). The total Base Rent during the Lease Term shall be Seventy-Eight Thousand Two Hundred Forty and 00/100 Dollars (\$78,240.00). The first three (3) Base Rent monthly payments due on February 1, 2011, March 1, 2011, and April 1, 2011, shall be due and payable upon Tenant's execution of this Lease. Thereafter, the Base Rent shall be payable in advance by Tenant to Landlord on the first (1<sup>st</sup>) day of each month in the monthly amounts noted herein. The payment shall be made by check payable to "Treasurer of Arlington County, Virginia" and delivered to the following address: Arlington County, Virginia, Department of Environmental Services, Engineering and Capital Projects Division, Attention: Real Estate Bureau, 2100 Clarendon Boulevard, Suite 800, Arlington, Virginia, 22201, or to Landlord at such other place as Landlord may from time to time designate in writing.

D. Any Base Rent, Additional Rent, or any other sum payable by Tenant to Landlord pursuant to this Lease, which sum is not paid within ten (10) days after it is due, shall be subject to a late payment penalty of five percent (5%) of the amount of the payment due. In the event Landlord causes to be issued to Tenant a five (5) day notice demanding payment of any past due sum (or other legal notice caused by Tenant's default in rental payments, as discussed further hereinbelow), Tenant shall pay, at the same time and together with the past due payments, a servicing charge of One Hundred Dollars (\$100.00). Any payment which is more than thirty (30) days overdue shall bear interest at the rate of twelve percent (12%) per annum. Tenant further agrees and covenants that, if, because of the non-payment of rent by it in accordance with the terms set forth herein, Landlord deems it necessary to engage the services of an attorney to commence legal action against Tenant or Guarantor before the payment is received in full by Landlord, Tenant agrees that it will pay to Landlord, Landlord's actual attorney's fees, without limit, and immediately upon demand, plus court costs and sheriff's fees for each such legal action instituted, which sum or sums shall become retroactively due and be added to the arrearage in rent, unless such legal action shall be terminated by judgment for Tenant and/or Guarantor.

E. All rent and other payments required to be made by Tenant to Landlord pursuant hereto shall be payable to "Treasurer of Arlington County, Virginia" and mailed to Landlord at the address set forth in this section, or at such other addresses as Landlord may specify from time to time by written notice. Tenant's obligation to pay rent and any other amounts to Landlord pursuant to the terms of this Lease shall not be deemed satisfied until the full amount of such rent and other amounts (including, without limitation, penalties and interest) have been received by Landlord.

2. ELECTION REGARDING RELOCATION ASSISTANCE. In lieu of any other relocation assistance that has been or may be paid by Landlord, the Landlord shall pay to Tenant, within thirty (30) days after the later of (1) the Lease Termination Date or (2) Tenant's delivery of full and complete possession of the Leased Premises to Landlord, the sum of Seventy-Eight Thousand Two Hundred Forty and 00/100 Dollars (\$78,240.00). Such payment shall be reduced by all sums payable by Tenant to Landlord (whether or not reduced to judgment) for waste,

damage to the Leased Premises (including improvements), environmental investigation and remediation, unpaid state and local taxes (of any nature) related to or arising out of Tenant's occupation, use, business or operation of the Leased Premises. No payment will be made by Landlord to Tenant until Tenant fully and finally vacates the Leased Premises. Tenant hereby waives any and all right or entitlement to any other relocation assistance associated with, related to, or arising from, Landlord's acquisition of the Leased Premises.

3. RENEWALS, HOLDOVERS AND TERMINATION.

A. RENEWALS. None.

B. HOLDOVERS. None.

C. TERMINATION.

1. If, at any time during the Lease Term, the Tenant desires to terminate the Lease, for any reason, then upon the Tenant providing thirty (30) days prior written notice of such termination to the Landlord, this Lease shall terminate. The termination shall be effective upon the first day of the succeeding month after receipt of the written notice by Landlord. The Tenant promptly shall vacate the Leased Premises before the effective date of the Lease termination.

2. If Tenant fails to terminate its use of the Leased Premises and to vacate the Leased Premises on the earlier of the Lease Termination Date or the effective date of the termination of this Lease, as provided in subsection (1) above, then Tenant shall be deemed a trespasser. Thereafter, Landlord may immediately remove Tenant and Tenant's property from the Leased Premises, which removal shall be at Tenant's sole risk and expense. If Landlord takes action to remove Tenant from the Leased Premises, including, without limitation, the filing of a Summons for Unlawful Detainer, Tenant shall be liable to Landlord for Landlord's costs and actual attorneys' fees related to such action. If Landlord incurs such costs and fees, then such costs and fees shall be deducted by Landlord from the payment of Seventy-Eight Thousand Two Hundred Forty and 00/100 Dollars (\$78,240.00), described in section 1 of this Lease.

4. ADDITIONAL PAYMENTS BY TENANT TO LANDLORD.

A. OPERATING EXPENSES. During the Lease Term, Tenant covenants and agrees to pay promptly when due or on demand, and without offset, and including all penalties and interest (if any), either directly or by reimbursement to Landlord, at Landlord's sole option, all operating expenses related to the Leased Premises. For the purposes herein, the term "Operating Expenses" shall mean all costs and expenses incurred by Landlord or Tenant in connection with the continued ownership, operation, servicing, and maintenance of the Leased Premises including, but not limited to: all real property taxes, assessments, levies, fees, or other charges related to or charged against the Leased Premises; management fees; payroll taxes; personal property and/or business-related taxes; BPOL; sales tax; all utility charges and fees; extermination service; detection and security services; premiums for fire and casualty, liability, and all normal and customary insurance; building supplies; all attorneys' fees for work directly

related to management and operation of the Leased Premises; service and maintenance contracts, including contracts for the maintenance of HVAC and other mechanical equipment where applicable.

B. ADDITIONAL RENT. Tenant shall pay, as additional rent, all Operating Expenses and all other sums of money or charges required to be paid by Tenant pursuant to this Lease, whether or not the same shall be designated "additional rent", and all remedies applicable to the nonpayment of rent shall be applicable thereto. Any additional rent that relates to any delayed performance, any nonperformance, or any default by Tenant, or any act or omission which would, together with notice or lapse of time or both, constitute a default by Tenant, shall be deemed payable on the first day of the month next following such occurrence or nonoccurrence or when otherwise due and payable by demand or by law.

5. UTILITIES, SERVICES AND TAXES.

A. UTILITIES. Tenant shall pay all service fees, connection fees, disconnection fees, and relocation charges for all utilities, including gas, electricity, sewer, and water services used with respect to the Leased Premises. In no event shall Landlord be liable for damages or otherwise for an interruption or failure in the supply of any utility to the Leased Premises.

B. TRASH. Tenant shall provide for trash collection service at the Leased Premises, at Tenant's sole cost and expense. Tenant shall follow all instructions provided by Landlord for receptacle use. Any trash or refuse left outside of any building upon or adjacent to the Leased Premises may be removed by Landlord, at Landlord's option and without notice to Tenant, at Tenant's sole expense.

C. TAXES. Tenant shall pay for all taxes related to or arising from the Leased Premises, and any business(es) therein, directly to the respective taxing authority, including, but not limited to, the real estate taxes assessed against the Leased Premises and personal property taxes assessed against personal property lying thereon or thereunder.

6. PLUMBING, HEATING, AND AIR CONDITIONING. Tenant shall furnish heat, hot water, and air conditioning, if any, at Tenant's own cost and expense, including the costs of purchase and installation of such equipment, and the costs of operation, maintenance, repair, replacement and removal of systems or equipment that provides such amenities. Tenant agrees to keep the plumbing, heating, and air conditioning systems in good order and repair; to make replacements thereto, whether said repairs or replacements be necessitated by ordinary wear and tear or otherwise; to maintain a service contract on the heating and air conditioning systems which provides for periodic inspection and servicing of all said equipment and repairs and replacements thereto, whether said repairs and replacements be necessitated by ordinary wear and tear or otherwise.

7. CLEAN LEASED PREMISES. Tenant, at its own cost and expense, shall keep the Leased Premises, and areas surrounding the Leased Premises, clean and free of obstructions of any nature. Tenant shall maintain suitable and sufficient receptacles for all trash, refuse, oil,

gasoline, and recyclables. Tenant shall promptly remove from the Leased Premises all accumulations of trash and refuse.

**8. REPAIRS TO LEASED PREMISES; CONDITION AT END OF TERM; SURRENDER OF LEASED PREMISES.**

A. Tenant shall keep the interior and exterior of the Leased Premises and the fixtures thereon and therein in good order and proper sanitary condition. Tenant shall make and pay for, at its own cost and expense, all repairs and replacements to the Leased Premises and fixtures thereon, including repairs to roofs, downspouts, gutters, and exterior walls (windows and/or doors are deemed to be exterior walls for the purpose of this Lease). At the expiration or termination of this Lease, Tenant shall leave the Leased Premises and fixtures thereon in good condition, ordinary wear and tear excepted. Upon the expiration or earlier termination of the term hereof, Tenant shall pay to Landlord any amount reasonably estimated by Landlord as necessary to put the Leased Premises in good condition and repair. If Tenant is unwilling or unable to repair the Leased Premises, the Tenant's sole remedy shall be termination of the Lease upon thirty (30) days prior written notice to Landlord, and Landlord shall be entitled to deduct from the total final amount paid by Landlord to Tenant the amount incurred by Landlord for repair of the Leased Premises due to damage caused by Tenant.

B. At the expiration of the Lease Term, or the earlier termination thereof, Tenant shall surrender the Leased Premises, including construction improvements, less reasonable wear and tear, and all keys to or for the Leased Premises, to Landlord, and shall inform Landlord of all combinations on locks, safes, and vaults, if any, in or on the Leased Premises. Tenant's obligation to observe or perform this covenant shall survive the expiration or other termination of this Lease.

**9. CONDITION OF LEASED PREMISES; NO REPRESENTATIONS.** Landlord furnishes and Tenant accepts the Leased Premises in an "as is" condition without warranties, either expressed or implied. Tenant acknowledges that it has examined and knows the condition of the Leased Premises including the improvements thereon. No representation has been made to Tenant by Landlord, rental agent, or other person or entity as to (i) the condition of the Leased Premises; (ii) particular uses that may be conducted thereupon; and (iii) the legally permitted use(s).

**10. ALTERATIONS AND ADDITIONS; FIXTURES; LIABILITY.**

A. Tenant shall make no structural alterations or changes to any part of the Leased Premises without Landlord's prior written consent; and, after Tenant provides Landlord with an approved building permit and plans acceptable to Landlord. Any addition, improvements, alterations, and/or installments, including, without limitation, all fixtures, made or installed by Tenant after the Lease Commencement Date, shall become and remain a part of the building and be and remain Landlord's property upon the termination of Tenant's occupancy of the Leased Premises; provided, however, that if Landlord gives written notice to Tenant at the expiration or prior to termination of this Lease to such effect, it may require Tenant to restore the Leased Premises to its condition on this Lease's commencement date.

B. Tenant hereby saves Landlord, its elected and appointed officials, officers, employees, agents, successors and assigns, harmless from and against all expenses, liens, claims, or damages to any property or person which may or might arise by reason of the making of any such additions, improvements, alterations, and/or installations. Tenant shall give Landlord lien waivers from any and all contractors prior to the commencement of construction and when all construction is completed. Tenant shall, at its sole cost and expense, immediately cause all liens recorded against any portion of the Leased Premises to be removed.

11. INTERIOR DESIGN; DISPOSITION OF TRADE FIXTURES AND BUSINESS PERSONAL PROPERTY.

A. Landlord shall have the right to approve, in writing, the plans for the design of the interior of the Leased Premises, which approval will not be unreasonably withheld. After such approval is obtained from the Landlord, the Tenant may install any furniture, trade fixtures, and machinery necessary to conduct Tenant's business.

B. Notwithstanding subsection A. above, all furniture, trade fixtures, machinery, and other property, not removed on the Lease Termination Date or date of earlier Lease termination, shall be deemed to have been abandoned by Tenant, and shall become Landlord's property. The cost to the Landlord to remove such furniture, trade fixtures, machinery and other property may be deducted by Landlord from the total final amount due to Tenant upon the Lease's termination or expiration.

12. TENANT'S PERSONAL PROPERTY. All personal property and trade fixtures (including, without limitation, vehicle hydraulic lifts) in the Leased Premises shall be and remain at Tenant's sole risk. Landlord shall not be liable to any person or entity for loss or damage to property of Tenant or others arising from theft, fire, explosion, bursting, overflowing, or leaking of the roof, or of water, sewer, or steam pipes, or from heating or plumbing fixtures, or from electric wires or fixtures, or from any other cause whatsoever.

13. SECURITY DEPOSIT. None. Tenant acknowledges that Landlord is neither required to reimburse, nor liable for reimbursing, to Tenant any security deposit previously paid by Tenant to any person or entity.

14. USE OF LEASED PREMISES. Tenant shall comply with all federal, state, and local laws, ordinances, rules and regulations now in effect or that may hereafter be enacted insofar as they pertain to the conduct of Tenant's business upon, and use of, the Leased Premises. Tenant shall not use, permit, or suffer to be used, the Leased Premises for any disorderly, hazardous, or unlawful purpose, or for any purpose other than an automotive repair facility.

15. PERMITS. Tenant shall obtain, at Tenant's sole cost and expense, any and all permits, licenses, and other governmental or administrative approvals required or necessary to permit Tenant to occupy and use the Leased Premises.

16. ASSIGNMENT, SUBLETTING, LICENSING. Tenant shall not mortgage or encumber this Lease, the Leased Premises, or any estate or interest therein. Tenant shall not sublet the Leased Premises, or any part thereof, or transfer possession or occupancy thereof, or transfer or assign this Lease. Any assignment, transfer, or subletting shall constitute a default under the terms of this Lease. If, during the Lease Term, any or all of the shares of Tenant's stock or Tenant's partnership interests shall be transferred by sale, assignment, merger, operation or law, or other disposition so as to result in a transfer of more than forty-five percent (45%) of Tenant's stock or partnership interest, such transfer shall be deemed an assignment and, therefore, prohibited. Tenant shall not permit other persons or entities, by license agreement or otherwise, to use or occupy the Leased Premises.

17. INDEMNIFICATION; LANDLORD COSTS TO ENFORCE TERMINATION. Tenant shall indemnify Landlord, its elected and appointed officials, officers, employees, agents, successors and assigns, and shall save them harmless from and against any and all claims, actions, damages, liability, and expense, including actual attorneys' fees, in connection with loss of life, personal injury, or damage to property arising from any occurrence, act or omission, in or about the Leased Premises, or the occupancy or use by Tenant of the Leased Premises, or caused by any occurrence, act or omission of Tenant, its agents, servants, employees, assignees, or invitees, including, but not limited to, the filing of any mechanics or materialman's liens against the Leased Premises. Tenant shall also pay all costs, expenses, and actual attorneys' fees that may be incurred by Landlord in enforcing the covenants and agreements in this Lease or in enforcing a termination of this Lease pursuant to section 21 herein.

18. INSURANCE.

A. GENERAL PROVISIONS.

1. The deductible(s) on any insurance policy required to be carried by Tenant (or in the instance of real property insurance, carried by Landlord) shall be the responsibility of Tenant.

2. All insurance policies required of Tenant hereunder shall be endorsed to include the following provisions: "It is agreed that this policy is not subject to cancellation, non-renewal, material change, or reduction in coverage until thirty (30) days prior written notice has been given to Arlington County, Virginia."

3. Each commercial general liability policy shall name Landlord and any other parties in interest designated in writing by Landlord as additional insureds.

B. COMMERCIAL GENERAL LIABILITY. At all times during the Lease Term, Tenant shall carry and at all times maintain, at its own expense, with a company acceptable to Landlord, commercial general liability insurance and garage liability insurance in the amount of at least Two Million and 00/100 Dollars (\$2,000,000.00) per occurrence and Four Million and 00/100 Dollars (\$4,000,000.00) in the aggregate for bodily injury and property damage. Tenant shall include Landlord, its elected and appointed officials, officers, employees and agents, as additional insureds on all policies of insurance. Prior to the beginning of the Lease Term, Tenant

shall provide Landlord with a Certificate of Insurance showing that all insurance required by this section is in effect. Such liability insurance shall be applicable to the Leased Premises and all equipment existing and/or installed by Tenant therein, thereon, or thereunder.

C. INSURANCE FOR TENANT'S PERSONAL PROPERTY. Tenant shall, at all times during the Lease Term, maintain in full force and effect policies of insurance, provided by an insurance carrier satisfactory to Landlord, covering Tenant's trade fixtures, merchandise and other personal property from time to time in or on the Leased Premises, in an amount not less than one hundred percent (100%) of the personal property's actual replacement cost, providing protection against all risks covered by standard broad-form property insurance.

D. PROPERTY INSURANCE.

1. Throughout the Lease Term, Landlord shall maintain fire insurance for the replacement value of the building on the Leased Premises or, alternatively, self-insure the building on the Leased Premises. The foregoing insurance coverage and any other insurance or self-insurance carried by Landlord shall be for the sole benefit of Landlord and under Landlord's sole control, and Tenant shall have no right or claim to any proceeds thereof or any other rights thereunder.

2. Tenant shall not do or permit anything to be done by Tenant, its employees, agents or contractors in the Leased Premises or on or in the building that is on the Leased Premises or bring or keep anything therein that shall in any way increase the rate of fire or other insurance for said building or Leased Premises, or conflict with the fire laws or regulations, or with any insurance policy upon said building or Leased Premises or any part thereof, or with any self insurance requirement, statutes, rules or regulation enacted or established by the applicable governmental authority.

3. If at any time during the Lease Term, Landlord, in its sole discretion, determines that: (a) the building or any part of the Leased Premises are completely damaged or destroyed by fire or other casualty, or (b) the Leased Premises are so damaged that the portion remaining undamaged is unsuitable for the operation of Tenant's permitted use, and such damage or destruction cannot be repaired so that the building and the Leased Premises are restored to the same condition as they were immediately prior to the damage or destruction with thirty (30) days after such damage or destruction, Landlord may terminate this Lease, without further liability or obligation to Tenant arising from such termination, by giving written notice to the Tenant of such termination at any time within thirty (30) days after the date of such damage. In no event shall Landlord be required to rebuild, repair, or replace any part of the partitions, fixtures, additions, other improvements, machinery and tools which may have been placed in, on, or about the Leased Premises by Tenant. No compensation or claim will be allowed or paid, by Landlord, by reason of inconvenience, annoyance, or injury to business arising from the repairing or closing the building or the Leased Premises due to fire or other casualty damage.

E. PROOF OF INSURANCE. Copies of all policies or certificates evidencing the existence and amounts of insurance required by this section shall be delivered to Landlord no later than the date on which this Lease is last executed by a party hereto, and all notices of non-

renewals, cancellations, lapses, or expirations of any such policy shall be delivered to Landlord at least ten (10) days prior to the non-renewal, cancellation, lapse or expiration of any such policy. Tenant's failure, at any time, to provide and keep in full force and effect the insurance required by this section shall be a material default, entitling Landlord to exercise any or all of the remedies provided in this Lease.

19. REQUIREMENTS OF LAW; HAZARDOUS MATERIALS.

A. Tenant shall obey all applicable environmental statutes, rules and regulations regarding use, storage and disposal of any hazardous or toxic substance or material regulated by such statutes, rules, and regulations. Tenant shall comply with any and all environmental laws and regulations of Arlington County and the Virginia Department of Environmental Quality. Tenant shall not store, handle, generate, treat or dispose of hazardous materials on the Leased Premises or any other property in connection with Tenant's activities. "Hazardous Materials" shall mean any and all hazardous wastes and/or toxic chemicals, materials, substances or wastes, including, but not limited to, oil and petroleum-based products, occurring in the air, water, soil or ground water at the Leased Premises by reason of which the owner of the premises would be subject to an injunction action and/or any damages, penalties, clean-up costs or other liability under the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund or CERCLA), 42 U.S.C. §§ 9601 *et seq.*, as amended, the Superfund Amendments and Reauthorization Act of 1986 (SARA) 42 U.S.C. § 9601(20)(D), as amended, the Resource Conservation and Recovery Act (the Solid Waste Disposal Act or RCRA), 42 U.S.C. §§ 9601 *et seq.*, as amended, the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, (CWA) 33 U.S.C. §§ 1251 *et seq.*, as amended, the Clean Air Act (CAA) of 1966 as amended, 42 U.S.C. §§ 7401 *et seq.*, as amended, the Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 *et seq.*, as amended, and any other federal, state or local laws, regulations, statutes or ordinances respecting the removal or remediation of hazardous materials. The term "Hazardous Material" shall have the meanings specified in CERCLA, SARA, RCRA, CWA, CAA and TSCA and under Virginia law; provided that in the event that any of these regulations are amended to broaden the meaning of these terms, such broader meaning shall apply subsequent to the effective date of any such amendment. Hazardous Materials do not include small quantities of materials present on the Leased Premises in small retail containers, which would not be prohibited, regulated or controlled under applicable environmental laws.

Tenant further agrees to make any required changes in its operation necessary to be in full compliance with all Environmental Protection Agency and Virginia Department of Environmental Quality rules and regulations. Tenant agrees to have an independent assessment performed regarding its compliance with Environmental Protection Agency and Virginia Department of Environmental Quality Rules and Regulations.

B. PAYMENT OF DAMAGES; INDEMNIFICATION.

1. Notwithstanding anything contained in this Lease to the contrary, Tenant agrees that it shall pay to Landlord all direct monetary damages for personal injury or property

damage plus any statutory liability arising from Tenant's acts or omissions which constitutes a breach of this section by Tenant.

2. Tenant shall indemnify, defend and hold harmless Landlord from and against any and all actions (including remedial or enforcement actions of any kind, administrative or judicial proceedings, and orders or judgments arising out of or resulting therefrom), costs, claims, damages (including actual attorneys', consultants', and experts' fees, court costs and amount paid in settlement of any claims or actions), fines, forfeitures or other civil, administrative or criminal penalties, injunctive or other relief (whether or not based upon personal injury, property damage, or contamination of, or adverse effects upon, the environment, water tables or natural resources), liabilities or losses arising from a breach of this section by the Tenant or any of its agents, employees or contractors.

C. NOTICE OF HAZARDOUS MATERIALS. In the event that Hazardous Materials are discovered upon, in, or under the Leased Premises, and any governmental agency or entity having jurisdiction over the Leased Premises requires the removal or other treatment of such Hazardous Materials, Tenant shall be responsible for the removal or other treatment of those Hazardous Materials arising out of or related to the use or occupancy of the Leased Premises by Tenant or its predecessors including the disturbance of any pre-existing Hazardous Materials. Notwithstanding the foregoing, Tenant shall not take any remedial action in or about the Lease Premises or any portion thereof without first notifying the Landlord of its intention to do so and affording the Landlord the opportunity to protect its interest with respect thereto. Tenant immediately shall notify Landlord of: (i) any spill, release, discharge or disposal of any Hazardous Material in, on or under the Leased Premises or any portion thereof; (ii) any enforcement, cleanup, removal or other governmental or regulatory action instituted, contemplated, or threatened (if Tenant has notice thereof) pursuant to any laws respecting Hazardous Materials; (iii) any claim made or threatened by any person against Tenant or the Leased Premises or any portion thereof relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or claimed to result from any Hazardous Materials; and (iv) any reports made to any governmental agency or entity arising out of or in connection with any Hazardous Materials in, on under or about or removed from the Leased Premises or any portion thereof, including any complaints, notices, warnings, reports or asserted violations in connection therewith. Tenant also shall supply to Landlord as promptly as possible, and in any event within five (5) days after Tenant first receives or sends the same, copies of all claims, reports, complaints, notices, warnings or asserted violations relating in any way to the Leased Premises, Tenant's use or occupancy thereof.

D. SURVIVAL. The respective rights and obligations of Tenant under this section shall survive the expiration or earlier termination of this Lease.

20. CONDEMNATION / EMINENT DOMAIN. If the whole or any interest in or part of the Leased Premises (including, without limitation, condemnation of this Lease) shall be taken pursuant to the power of eminent domain (or pursuant to an agreement reached with a condemning authority in lieu of condemnation), then this Lease shall cease as of the date possession is taken by the condemning authority and the Tenant shall have no further rights hereunder. Tenant shall have no claim against Landlord, and shall have no claim or right to any portion of any amount awarded (or agreed to between the owner and the condemning authority)

as compensation or damages paid as a result of any threatened or filed condemnation. Tenant hereby waives relocation assistance in excess of the payment provided herein; and all rights of Tenant to damages therefore, if any, are hereby assigned by Tenant to Landlord. Upon such condemnation or taking, Tenant shall have no claim against Landlord for the value of any: unexpired term of this Lease; leasehold improvements; goodwill; or lost business revenue or profits.

21. DEFAULT; REMEDIES. Default shall be defined as (i) Tenant's failure to comply with any federal, state or local law, ordinance or regulation to which Tenant is subject, or (ii) Tenant's failure to comply with any provision of this Lease.

Upon the occurrence of a Default, the Landlord shall send to the Tenant a notice of default indicating the nature and date of the default. Such notice shall give the Tenant fifteen (15) days to cure such default. If Tenant does not cure the default within such fifteen (15) day period, then this Lease shall terminate upon notice from Landlord to Tenant, unless Landlord, in its sole discretion, determines that the default is not reasonably capable of being cured within such fifteen (15) day time period. If Landlord determines that such default is not reasonably capable of being cured within such fifteen (15) day period, then the time period for cure shall be extended for such longer period as may be determined by Landlord, in its sole discretion, reasonably necessary to cure such default, provided Tenant: a) makes reasonable good faith efforts to cure, and b) provides Landlord with a description and schedule of these efforts. Upon termination of this Lease, Landlord may take possession of the Leased Premises and evict Tenant from the Leased Premises without resorting to legal process in the event of any uncured default, and this Lease will terminate without any liability whatsoever to Landlord. If this Lease is terminated pursuant to this section, then the Landlord shall have no obligation whatsoever to Tenant except the payment described in section 1 hereinabove.

22. WAIVER. The waiver by Landlord of any breach of the term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition herein contained. The subsequent acceptance of rent hereunder by Landlord shall not be deemed a waiver of any preceding breach by Tenant of any term, covenant, or condition of this Lease, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term, or condition of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing by Landlord.

23. LANDLORD'S CURE OF DEFAULT BY TENANT; REIMBURSEMENT OF EXPENSES. If Tenant defaults in making any payment or in doing any act herein required, then Landlord may, but need not, make such payment or do such act. If Landlord makes any such payment or incurs any charge or expense, without limitation, on behalf of Tenant pursuant to the terms of this Lease, then the amount of the payment or expense, plus ten percent (10%) of said charge or expense, with interest thereon at the rate of twelve percent (12%) per annum, beginning ten (10) days after a written invoice therefor is sent by Landlord, shall be paid by Tenant to Landlord, shall constitute additional rent hereunder, and shall be due and payable immediately upon demand by Landlord therefor; provided, however, that the making of such

payment or the doing of such act by Landlord shall not cure such default by Tenant or stop Landlord from pursuing any remedy to which Landlord would otherwise be entitled.

24. LANDLORD'S LIEN. In addition to any statutory lien for default rent in Landlord's favor, Tenant hereby grants to Landlord a continuing security interest for all rent, additional rent, and other payments due hereunder, upon all goods, wares, equipment, fixtures, furniture, inventory, accounts, contract rights, chattel paper, and all other personal property of Tenant situated on the Leased Premises. Such property shall not be removed from the Leased Premises without the consent of Landlord until payment has been made of all arrearages in rent, additional rent, or other payments then due to Landlord. Tenant hereby agrees to execute such financing statements and other instruments necessary to perfect the security interest hereby granted and created.

25. CONDUCT OF BUSINESS. Landlord shall not be liable to any person or entity for the conduct and operation of Tenant's business within or upon the Leased Premises.

26. SUBORDINATION. This Lease is subject and subordinate to all ground or underlying leases, and to any first mortgage or first deed of trust (which terms shall include both construction and permanent financing) that may now or hereafter encumber or otherwise affect the Leased Premises or Tenant's leasehold or Landlord's fee simple interests therein, and to all renewals, extensions, modifications, consolidations, replacements, recastings, and/or refinancing thereof. This clause shall be self-operative, and no further instrument of subordination shall be required by any mortgagee or trustee to effect the subordination of this Lease. Nonetheless, in confirmation of such subordination, Tenant shall, at Landlord's request, promptly execute, within ten (10) calendar days after receipt thereof, any requisite or appropriate certificate or document. Tenant further covenants and agrees that it will, at the written request of the party secured by any such mortgage or deed of trust, execute, acknowledge and deliver any instrument to effect the subordination of this Lease to the mortgage or deed of trust. Tenant hereby constitutes and appoints Landlord as Tenant's attorney-in-fact to execute any such certificates, instruments, or other documents on behalf of Tenant. Landlord shall provide Tenant with copies of all certificates, instruments, or documents that Landlord has executed on Tenant's behalf. Tenant agrees that in the event that any proceedings are brought for the foreclosure of such mortgage or deed of trust, Tenant shall attend to the purchaser at such foreclosure sale, if requested to do so by the purchaser, and to recognize the purchaser as Landlord under this Lease, and Tenant waives the provisions of any statute or rule of law, now or hereafter in effect, which may give Tenant any right to terminate this Lease in the event that any such foreclosure proceeding occurs.

27. MECHANIC'S LIENS. Tenant shall have no authority, express or implied, to create or place any lien or encumbrance upon, or in any manner to bind, the interest of Landlord in the Leased Premises. Tenant shall have no authority to charge the rents payable hereunder for any claim in favor of any person dealing with Tenant, including those who may furnish materials or perform labor for any construction or repairs to Tenant. If any mechanic's or materialman's lien is filed against the Leased Premises for work furnished to Tenant, such lien shall be discharged by Tenant immediately, at Tenant's sole cost and expense, by appropriate legal action or by the payment thereof, or by filing any bond required by law. If Tenant fails to discharge any such

mechanic's or materialman's lien, Landlord may, at its option, discharge the same and treat the cost thereof as additional rent payable immediately and upon demand.

28. NOTICES.

Any notice or document required or permitted to be delivered hereunder shall be delivered by hand-delivery service or by overnight courier (e.g. FedEx) or by U.S. certified or registered mail, postage prepaid, addressed to the parties hereto at the respective addresses set out below, or at such other addresses as they have specified by written notice delivered in accordance herewith:

IF TO LANDLORD:

Arlington County, Virginia  
Department of Environmental Services  
Engineering & Capital Projects Division  
Attention: Real Estate Bureau Chief  
2100 Clarendon Boulevard, Suite 800  
Arlington, Virginia 22201

IF TO TENANT:

Yong Kyu Lee, President  
Specialty Auto Body, Inc.  
3912 5<sup>th</sup> Road North  
Arlington, VA 22203

With a copy to:

Robert L. Tomlinson, II, Esq.  
Attorney and Counselor at Law  
2009 14<sup>th</sup> Street North, #509  
Arlington, VA 22201

IF TO GUARANTOR:

Mr. Yong Kyu Lee

3912 5th Rd. North (Street Address)

Arlington, VA 22203 (City, State, ZIP Code)

(703) 525-5352 (Telephone Number)

(703) 525-3134 (Facsimile Number)

\_\_\_\_\_ (E-mail address, if any)

With a copy to:

Robert L. Tomlinson, II, Esq.  
Attorney and Counselor at Law  
2009 14<sup>th</sup> Street North, #509  
Arlington, VA 22201

Notices shall be effective upon the date and time of receipt by the party to whom they are sent. A notice received by Tenant or by Tenant's counsel shall constitute sufficient compliance with all of Landlord's notice requirements of this Lease.

29. SIGNS AND ADVERTISING. Tenant is permitted to retain the existing signage on the exterior of the building, provided that such signage meets all requirements of the Arlington County Zoning Ordinance and all other applicable laws and regulations.

30. QUIET ENJOYMENT. Upon payment by Tenant of the rents herein provided and upon the observance and performance of all the covenants, terms, and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the Leased Premises for the Lease Term without hindrance or interruption by Landlord, subject, nevertheless, to the terms and conditions of this Lease.

31. NUISANCES. Tenant shall not: cause, permit, allow, or suffer any objectionable noise, offensive odors, and loud noises or sounds to be emitted from the Leased Premises, or do or permit upon or within the Leased Premises anything tending to create a nuisance or to disturb any occupants of neighboring property. Tenant shall not cause, permit, allow, or suffer any activities which are illegal or otherwise contrary to law.

32. ACCESS BY LANDLORD. Landlord and its employees, contractors, and authorized agents shall have the right, upon prior verbal notice from Landlord to Tenant, to enter, inspect and perform investigations (whether invasive or otherwise) of the Leased Premises twenty-four (24) hours a day, seven (7) days a week for any purpose whatsoever, in Landlord's sole discretion. Tenant shall not be liable for any damage solely caused by Landlord's entry upon, inspection, investigations, repair, or maintenance of the Leased Premises.

33. NO PARTNERSHIP. Nothing contained in this Lease shall be construed to create a partnership or joint venture of or between Landlord and Tenant, or create any other relationship between those parties other than that of Landlord and Tenant.

34. NO REPRESENTATION BY LANDLORD OR OTHERS. Tenant agrees that neither Landlord nor any officer, official, employee, agent or contractor of Landlord has made any representations or promises with respect to the Leased Premises or with respect to any obligations of Landlord to Tenant, except as such provisions are specifically stated in this Lease.

35. BROKERAGE; INDEMNIFICATION BY TENANT. Landlord and Tenant agree that this Lease was not negotiated by or through the efforts of any real estate broker or agent, and that neither Landlord nor Tenant have obligated itself to the payment of any commission to any real estate broker or agent or to any other person for aid or assistance in the negotiation of this Lease. Tenant hereby further agrees to indemnify, defend, and hold harmless Landlord, its elected and

appointed officials, officers, employees, agents, successors and assigns, from any costs, expense, or liability, including costs of suit and reasonable attorney's fees, for any compensation, commission, or charges claimed through the Landlord or Tenant, respectively, by any realtor, broker, or finder with respect to this Lease.

36. FORCE MAJEURE. Whenever a period of time is herein prescribed for action to be taken by the Landlord, Landlord shall not be responsible for, and there shall be excluded from the computation for any such period of time, any delays due to "Force Majeure". For the purposes of this Lease, Force Majeure is any delay due to: strikes, riots, acts of God, shortages of labor or materials prevailing in the Washington, D.C., metropolitan area, war, governmental approvals, laws, regulations or restrictions or any other cause of any kind whatsoever, which is beyond the control of the Landlord.

37. PERSONAL GUARANTY. Yong Kyu Lee ("Guarantor"), by his signature hereinbelow, agrees that he shall be, in his personal, individual capacity, primarily bound and jointly and severally liable with Tenant under the terms of this Lease as though he were Tenant herein. Guarantor hereby covenants and agrees that if Tenant shall, at any time, default on any provisions of this Lease, then Guarantor, upon written demand from Landlord, shall pay any sum and provide any defense required under the Lease to Landlord, and shall fully satisfy all of the conditions and covenants of the Lease, and shall pay all damages that may arise out of, relate to, and occur by reason of nonperformance and/or breach of any of said covenants. Guarantor agrees that Landlord may proceed against Guarantor, at law or in equity, directly and independently from Tenant, Guarantor being jointly and severally liable with Tenant for strict compliance with all provisions of this Lease. In consideration of these obligations, Guarantor acknowledges that he will benefit from the relocation payment which will be paid by Landlord to Tenant after the termination of this Lease, and he acknowledges that he himself is not entitled to relocation benefits by virtue of having provided this personal guarantee or otherwise. All obligations of Guarantor hereunder shall survive the expiration or earlier termination of this Lease.

38. MISCELLANEOUS.

A. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include plural, unless the context otherwise requires.

B. Tenant agrees to furnish to Landlord, prior to execution of this Lease on behalf of Landlord, and promptly upon written demand thereafter, both appropriate documentation evidencing the valid creation and confirmed existence of the Tenant, in good standing. Such initial documentation shall include a corporate resolution evidencing authorization of the person executing this Lease to enter into this Lease on behalf of the Tenant. Each person executing this Lease on behalf of Tenant hereby covenants and warrants that Tenant is a duly authorized and existing corporation, in good standing, qualified to do business in the Commonwealth of Virginia, that the corporation has full right and authority to enter into this Lease, and that each person signing on behalf of the corporation is authorized to do so. Each person signing on behalf of Tenant agrees to be personally bound by the terms of this Lease.

C. The captions inserted in this Lease are for convenience only, and in no way define, limit, or otherwise describe the scope or intent of any provision hereof.

D. All references in this Lease to “the date hereof” or similar references shall be deemed to refer to the last date on which all parties hereto have executed this Lease.

39. TRANSFER OF LANDLORD’S INTEREST. Landlord may freely and fully assign any and all of its interests in this Lease.

40. BINDING EFFECT. The terms, conditions, and agreements herein contained shall be kept and performed by the respective parties hereto, and shall be binding upon them and each of their successors and assigns; and if there shall be more than one tenant, they shall all be bound jointly and severally by the terms, covenants, and agreements herein.

41. SURVIVAL OF TERMS. All obligations of Tenant hereunder not fully performed as of the expiration of this Lease shall survive the expiration or earlier termination of the term hereof, including, without limitation, all payment obligations with respect to additional rent, Operating Expenses, and all obligations concerning the condition of the Leased Premises.

42. ENTIRE AGREEMENT. This Lease, together with the Exhibit attached hereto and referenced herein, contains the entire and only agreement between Landlord and Tenant. No oral statements or representations or prior written matter not contained or referenced to in this Lease shall have any force or effect. This Lease shall not be modified in any way except by a writing executed by both parties hereto. No waiver of any provision of this Lease shall be deemed to have been made, unless it is in writing and signed by both parties hereto.

43. APPROPRIATION OF FUNDS. All obligations of the Landlord under the Lease shall be subject to the appropriation of funds by the County Board of Arlington County, Virginia, for the specific purpose of satisfying any payment and other obligations of the Landlord under the Lease.

44. ROLE OF LANDLORD/LANDLORD DECISIONS; NO WAIVER. The Landlord’s execution of this Lease shall not constitute the granting of governmental approval to Tenant for any governmental approval or consent required to be obtained by Tenant. Nothing in this Lease shall be construed to waive any of Landlord’s powers, right or obligations as a governing authority or local governmental body, including, but not limited to, its police powers.

45. SOVEREIGN IMMUNITY. Nothing in this Lease, nor any action taken by Landlord pursuant to this Lease, nor any documents which arise out of this Lease, shall constitute or be construed as a waiver of either the sovereign immunity or governmental immunity of Landlord, or of its elected and appointed officials, officers and employees.

46. INDEMNIFICATION AND HOLD HARMLESS. No provision of this Lease shall be construed as Landlord, explicitly or implicitly, agreeing to indemnify or holding harmless Tenant or any third party or parties from liability, regardless of its nature.

47. NO RIGHTS IN THIRD PARTIES. This Lease shall not create in the public, nor in any person or entity other than those signing this Lease, any rights as a third-party beneficiary.

48. EXECUTION AND DELIVERY OF LEASE BY LANDLORD. This Lease shall not become effective unless and until it is executed by the Tenant, approved by the County Board, and executed on behalf of the County Board. If this Lease is not approved by the County Board and executed on behalf of the County Board, then no liability whatsoever shall accrue to Landlord or Tenant, and neither shall have any obligation whatsoever to each other.

49. APPLICABLE LAW. The laws of the Commonwealth of Virginia shall govern the validity, performance, interpretation and enforcement of this Lease (without reference to conflicts of laws principles). All legal actions instituted by Landlord or Tenant concerning this Lease shall be filed in the Arlington County General District Court or the Arlington County Circuit Court, and in no other courts.

50. WAIVER OF JURY TRIAL. Tenant hereby waives trial by jury in any action, proceedings or counterclaim brought by either Landlord or Tenant against the other in any matters arising out of, or in any way connected with: this Lease; the relationship of Landlord and Tenant; Tenant's use or occupancy of the Leased Premises; and/or any claim of injury or damage to any person, entity, or property.

51. MEMORANDUM OF LEASE. Neither this Lease, nor a memorandum thereof, shall be recorded by or on behalf of Tenant or Landlord.

**[SIGNATURES APPEAR ON THE FOLLOWING PAGES]**

LANDLORD:

COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

By: \_\_\_\_\_  
Its: Real Estate Bureau Chief, Department of Environmental Services

COMMONWEALTH OF VIRGINIA  
COUNTY OF ARLINGTON, to-wit:

The foregoing instrument was acknowledged before me by \_\_\_\_\_  
\_\_\_\_\_, on behalf of THE COUNTY BOARD OF ARLINGTON COUNTY,  
VIRGINIA, a body corporate, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_  
Notary ID Number: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
COUNTY ATTORNEY

TENANT:

SPECIALTY AUTO BODY, INC., trading as MACK'S AUTO SERVICE

By: [Signature]  
Yong Kyu Lee  
Its: President

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF Arlington, to-wit:

The foregoing instrument was acknowledged before me by Yong Kyu Lee, as President of SPECIALTY AUTO BODY, INC., trading as Mack's Auto Service, a Virginia corporation, this 18 day of March, 2011.

Notary Public: Sylvia P. Gardis  
My Commission expires: 9/30/14  
Notary ID Number: 104495

GUARANTOR:

[Signature]  
Yong Kyu Lee

3912 5th Rd N (Street Address)

Arlington, VA 22203 (City, State, ZIP Code)

703 925 5352 (Telephone Number)

703 525 3134 (Facsimile Number)

\_\_\_\_\_ (E-mail Address, if any)

COMMONWEALTH OF VIRGINIA  
COUNTY OF ARLINGTON, to-wit:

The foregoing instrument was acknowledged before me by Yong Kyu Lee this 18th day of March, 2011.

Notary Public: Sylvia P. Gardis  
My Commission expires: 9/30/14  
Notary ID Number: 104495

## EXHIBIT A

All that certain piece or parcel of land with all its improvements and appurtenances thereunto belonging, situate, lying and being in Arlington County, Virginia, and being more particularly described as follows:

All of Lot Six (6), Spencer Roberts' Addition to Clarendon, as the same is duly dedicated, platted and recorded in Deed Book 251 at Page 521, among the land records of Arlington County, Virginia and further described as:

COMMENCING AT A PK NAIL FOUND AT THE INTERSECTION OF THE WESTERLY RIGHT OF WAY LINE OF NORTH POLLARD STREET AND THE NORTHERLY RIGHT OF WAY LINE OF 5<sup>th</sup> PLACE NORTH, MARKING THE SOUTHEASTERLY CORNER OF PART LOT 5, SPENCER ROBERTS' PROPERTY;

THENCE WITH SAID NORTHERLY RIGHT OF WAY LINE OF 5<sup>th</sup> PLACE NORTH TO THE POINT OF BEGINNING N 81° 57' 20" W, 125.00 FEET TO A 6" (SIX) INCH NAIL FOUND MARKING THE SOUTHEASTERLY CORNER OF LOT 6, SPENCER ROBERTS' ADDITION TO CLARENDON;

THENCE CONTINUING WITH THE SAID RIGHT OF WAY LINE OF 5<sup>th</sup> PLACE NORTH N 81° 57' 20" W, 50.00 FEET TO A PK NAIL FOUND MARKING THE SOUTHEASTERLY CORNER OF LOT 7, SPENCER ROBERTS' ADDITION TO CLARENDON;

THENCE WITH THE EASTERLY LINE OF SAID LOT 7 N 08° 02' 40" E, 107.68 FEET TO AN IRON PIPE FOUND IN A SOUTHERLY LINE OF A RESIDUE PORTION OF LOT 2, M. F. BIRCH ESTATE, MARKING THE NORTHEASTERLY CORNER OF LOT 7, SPENCER ROBERTS' ADDITION TO CLARENDON;

THENCE WITH THE SOUTHERLY LINE OF SAID RESIDUE PORTION OF LOT 2 S 81° 57' 20" E, 50.00 FEET TO A 6" (SIX) INCH NAIL FOUND MARKING THE NORTHEASTERLY CORNER OF THE AFOREMENTIONED LOT 6;

THENCE WITH THE EASTERLY LINE OF LOT 6, AND RUNNING WITH THE WESTERLY LINE OF A RESIDUE PORTION OF LOT 2, M. F. BIRCH ESTATE S 08° 02' 40" W, 107.68 FEET TO THE POINT OF BEGINNING.

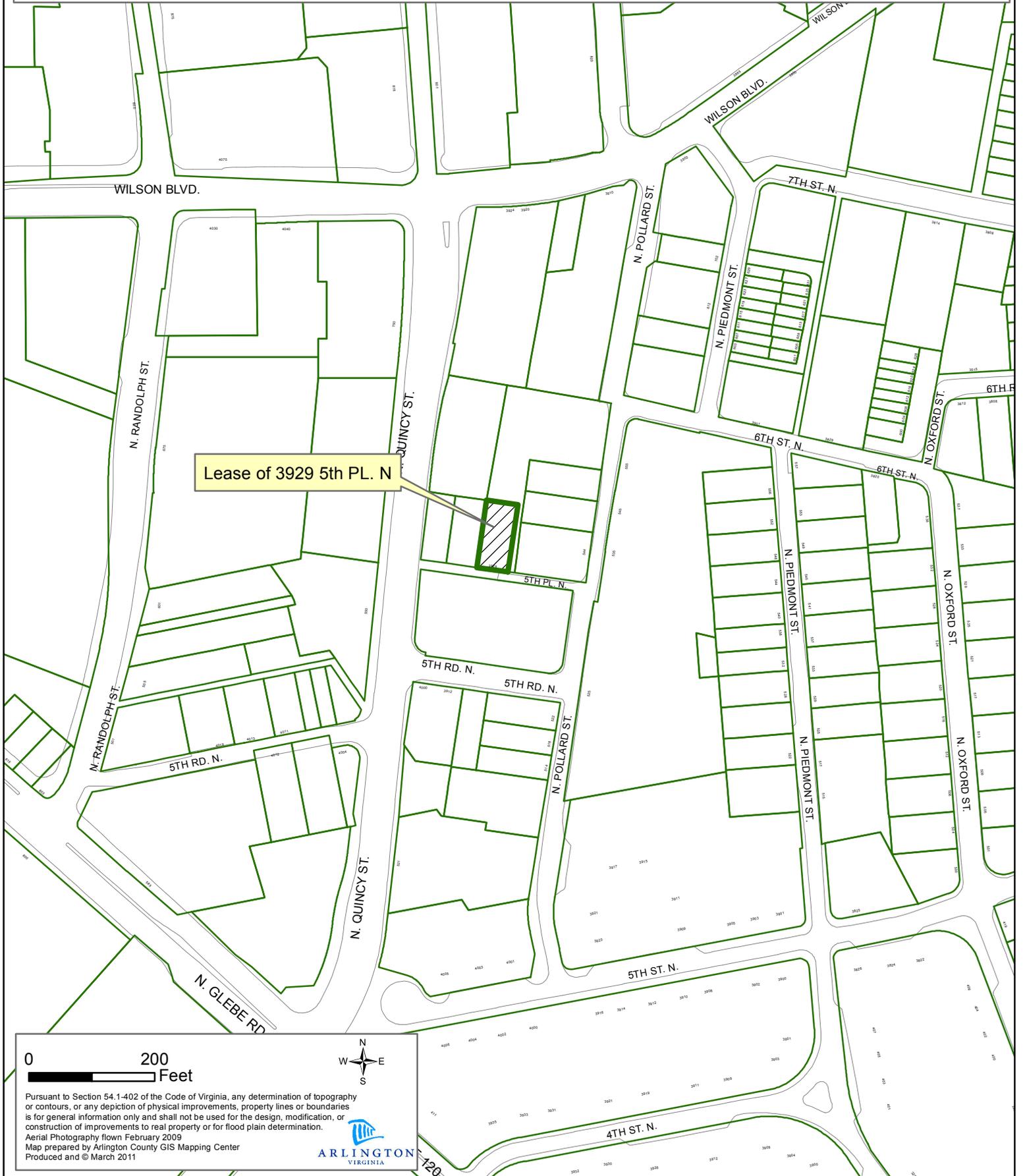
CONTAINING 5,384 SQUARE FEET OR 0.1236 ACRES OF LAND.

# Vicinity Map

## 3929 5th Place North

### RPC # 14060017

ATTACHMENT 2



Lease of 3929 5th PL. N



Pursuant to Section 54.1-402 of the Code of Virginia, any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination.  
Aerial Photography flown February 2009  
Map prepared by Arlington County GIS Mapping Center  
Produced and © March 2011



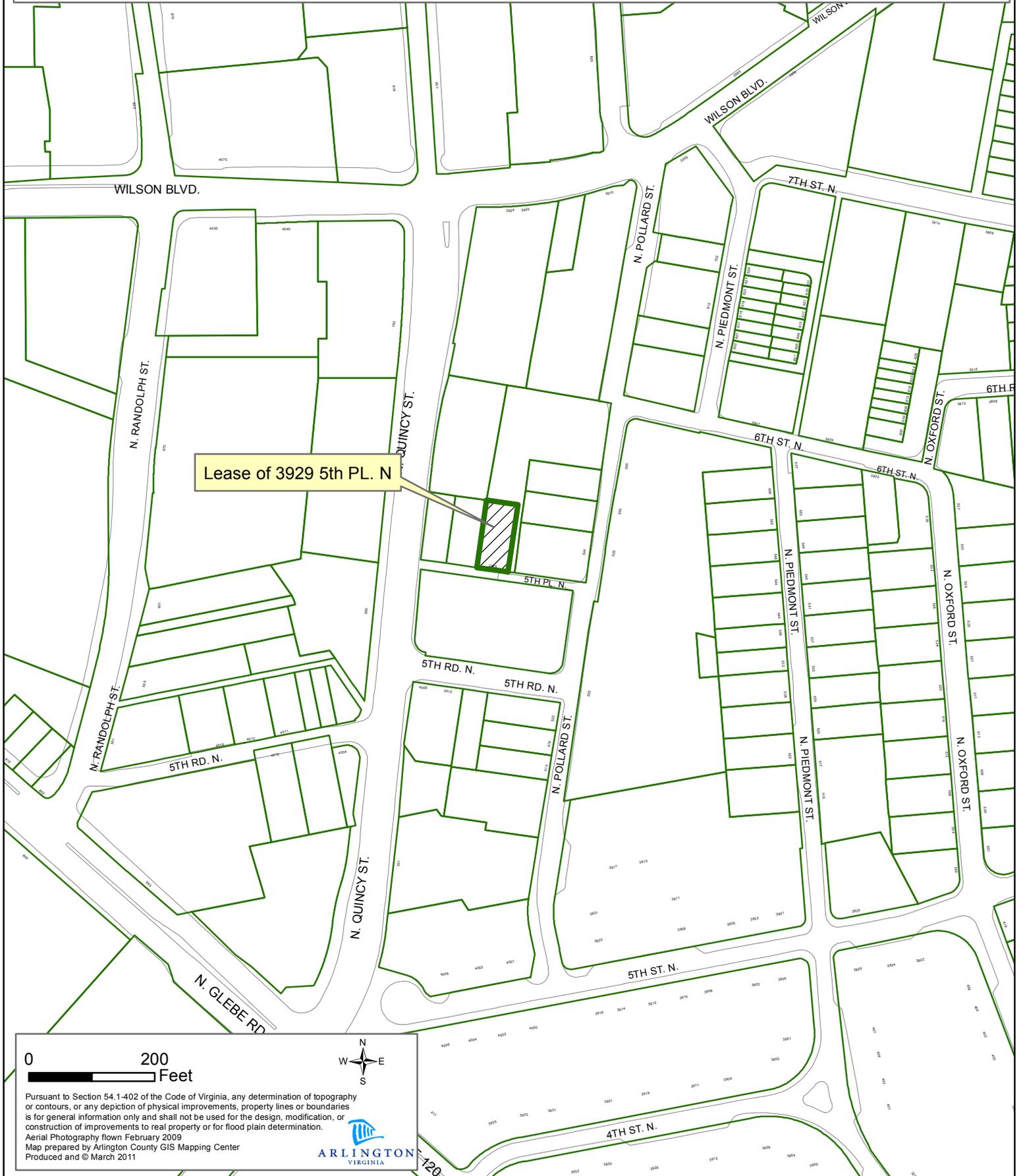


# Vicinity Map

## 3929 5th Place North

### RPC # 14060017

ATTACHMENT 4



Lease of 3929 5th PL. N



Pursuant to Section 54.1-402 of the Code of Virginia, any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination.  
Aerial Photography flown February 2009  
Map prepared by Arlington County GIS Mapping Center  
Produced and © March 2011

