



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
June 17, 2008**

**DATE:** May 14, 2008

**SUBJECT:** Approval of a Fourth Lease Extension Agreement between CESC Square L.L.C., as Landlord, and The County Board of Arlington County, Virginia, as Tenant, for a Commuter Services Center at 1615-B Crystal Arcade, Arlington, VA (RPC 34020248).

**C. M. RECOMMENDATIONS:**

1. Approve the Fourth Lease Extension Agreement between CESC Square L.L.C., as Landlord, and The County Board of Arlington County, Virginia, as Tenant, for a Commuter Services Center at 1615-B Crystal Arcade, Arlington, VA (RPC 34020248).
2. Authorize the Real Estate Bureau Chief, or his designee to execute, on behalf of the County Board, the above referenced Fourth Lease Extension Agreement, and all related documents, subject to approval as to form by the County Attorney.

**ISSUE:** As a part of the lease approval process, the County Board is being requested to approve and authorize the execution of the attached Fourth Extension to Lease Agreement for the Commuter Store at the Crystal City.

**SUMMARY:** By the County Board approving the Fourth Lease Extension Agreement for a Commuter Services Center at 1615-B Crystal Arcade, Arlington, VA, and after it has been properly executed, the County shall continue to have use of and occupy retail space at the Crystal City Arcade.

**BACKGROUND:** The County entered into a Lease Agreement dated May 27, 1992 with First Ball Associates Limited Partnership for the leasing space located at 1615-B Crystal Square Arcade for the operation of the Crystal City Commuter Services Center, a part of the Arlington County Department of Environmental Services (DES) Commuter Assistance Program. The Lease has been extended by the parties on three occasions since 1992.

The Commuter Assistance Program encourages transportation management initiatives in the County by promoting public knowledge and use of commuting alternatives to the single occupant vehicle. The Commuter Store in Crystal City is one of four stores in the program. All four Commuter Stores in the program provide retail and mail order transit ticket sales; telephone

County Manager: \_\_\_\_\_

County Attorney: \_\_\_\_\_

Staff: Linda DePersis, DES-Real Estate Bureau and Chris Hamilton, Division of Transportation

and on-site information; and rideshare matching services in support of car and vanpool activities in the area. Services for walk-in customers also include schedule information, sales of tickets, tokens, and passes for area transportation services.

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

- The Fourth Extension is effective on July 1, 2008, for an extended term of 5 years, ending on June 30, 2013. However, if the Landlord chooses to renovate or demolish the building or portion of the shopping center containing the Leased Premises, the Landlord may terminate the Lease, without liability, upon 6 months prior written notice to the County.
- Vornado re-measured the leased premises in accordance to the BOMA standard method of measurement, and County staff verified the leased premises consists of 545 rentable square feet of retail space (not 534 square feet) in the building known as Crystal Square Two, located at 1615-B Crystal Square Arcade, Arlington, VA. Therefore, the leased premise is 11 rentable square feet larger than shown in previous Board Reports and lease documents.
- Upon commencement of the Fourth Extension, the County shall initially pay \$1,332.07 per month or \$29.33 per square foot for base rent on an annual basis. The base rent will increase by 3 percent each year thereafter.
- The County is also required to pay, as additional rent, a pro rata share of increases in operating expenses and real estate taxes over the 2003 base year.

**FISCAL IMPACT:** The rent for this leased space is paid with grant funds that support the Commuter Assistance Program, and the funds are included in the FY 2009 budget.

**EXHIBIT A**  
**FOURTH LEASE EXTENSION AGREEMENT**

**FOURTH LEASE EXTENSION AGREEMENT**

**THIS FOURTH LEASE EXTENSION AGREEMENT** (the "Fourth Extension") made this day of \_\_\_\_\_, 2008, by and between **CESC SQUARE L.L.C.**, a Virginia limited liability company ("Landlord"), and the **COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body politic ("Tenant"), jointly the ("Parties").

**RECITALS:**

**WHEREAS**, the Parties hereto entered into a Lease Agreement dated May 27, 1992, as extended by the First Lease Extension Agreement dated September 29, 1993, the Second Lease Extension Agreement, dated July 11, 1998 and the Third Lease Extension Agreement dated November 17, 2003 (collectively the "Lease"), which provide for the leasing of Store 55-B, consisting of approximately 534 square feet of retail space, in the building known as 1550 Crystal Drive (formerly known as Crystal Square Two), located at 1615-B Crystal Square Arcade, Arlington, Virginia, RPC 34020248, as shown on Attachment 1 - Vicinity Map, for a term expiring on June 30, 2008; and

**WHEREAS**, by means of this Fourth Lease Extension Agreement the Parties hereto desire to amend the Lease;

**WHEREAS**, The parties agree that effective on the Fourth Extended Term Effective Date (as herein defined), the floor area of the Leased Premises shall be re-designated as 545 square feet and the charges due under the Lease shall be computed based upon 545 square feet, as shown on Exhibit A attached hereto and made a part hereof.

**WHEREAS**, the Lease and this Fourth Extension are collectively hereinafter referred to as the Lease.

**WITNESSETH:**

**NOW THEREFORE**, in consideration of the sum of Ten Dollars (\$10.00), the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Term of Extension** Section 1.2 of the Lease is hereby amended to extend, for a period of Five (5) years, the term of the Lease, which extension commences on July 1, 2008 (the "Fourth Extended Term Effective Date"), and expires on June 30, 2013 (the "Fourth Extended Term").

2. **Minimum Annual Rent**. Section 1.4 of the Lease is hereby amended to increase the Minimum Annual Rent for the Fourth Extended Term as follows:

(a) The Minimum Annual Rent for Months One (1) through Twelve (12) (July 1, 2008 through June 30, 2009) of the Fourth Extended Term shall be Fifteen Thousand Nine Hundred Eighty-Four and 84/100

Dollars (\$15,984.84) per annum, payable in equal monthly installments of One Thousand Three Hundred Thirty-Two and 07/100 Dollars (\$1,332.07), for the first twelve (12) months following the Fourth Extended Term Effective Date.

(b) Minimum Annual Rent Increase. Commencing on the first anniversary of the Fourth Extended Term Effective Date, and continuing cumulatively on every subsequent anniversary of the Fourth Extended Term Effective Date throughout the Fourth Extended Term, Minimum Annual Rent shall be increased by three percent (3%) pursuant to the following schedule.

Lease Year, Month and Dates	Cost per Square Foot for Minimum Annual Rent	Minimum Annual Rent	Minimum Monthly Rent
*Year 1: 7/1/2008 - 6/30/2009	\$29.33	\$15,984.84	\$1,332.07
Year 2: 7/1/2009 - 6/30/2010	\$30.21	\$16,464.48	\$1,372.04
Year 3: 7/1/2010 - 6/30/2011	\$31.12	\$16,960.44	\$1,413.37
Year 4: 7/1/2011 - 6/30/2012	\$32.05	\$17,467.20	\$1,455.60
Year 5: 7/1/2012 - 6/30/2013	\$33.01	\$17,990.40	\$1,499.20

\* Minimum Annual Rent described in Section 2(a) above.

3. Additional Rent. Additional Rent shall continue to be paid in accordance with the terms of the Lease and shall continue to be adjusted just as if the Fourth Extended Term were part of the original Lease Term, except as follows: for purposes of calculating Additional Rent for the Leased Premises for the Fourth Extended Term, the Tenant's pro rata shares of increases in Operating Expenses and Real Estate Taxes, shall each be Thirty-Eight Hundredths Percent (.38%), and the Base Year shall be Landlord's Fiscal Year ending on December 31, 2003. Tenant's obligation to pay such Additional Rent for the Fourth Extended Term shall accrue and commence on the Fourth Extended Term Effective Date. Tenant shall pay all Additional Rent for the Leased Premises which may have accrued prior to the Fourth Extended Term Effective Date (including any year end reconciliations) based on the square footage of the Leased Premises and other terms stipulated in the Lease prior to this agreement.

4. Remeasurement of the Leased Premises. The parties agree that effective on the Fourth Extended Term Effective Date (as herein defined), the floor area of the Leased Premises shall be re-designated as 545 square feet and the charges due under the Lease shall be computed based upon 545 square feet.

5. Acceptance of Space. Tenant accepts the Leased Premises in its existing "as is" condition and shall be obligated for the payment of rent hereunder, regardless of any time required to construct, alter or redecorate the Leased Premises to Tenant's requirements. Tenant hereby acknowledges and agrees that there are no leasehold improvements or improvement concessions of any kind to be provided by Landlord as part of this Fourth Extension.

6. Demolition. In the event that Landlord, in its sole and absolute discretion, elects to renovate or demolish the Building, the Shopping Center, or the portion of the Shopping Center containing the Leased Premises, Landlord may terminate the Lease effective at any time, upon at least six (6) months prior written notice to Tenant. In such event, Minimum Annual Rent and Additional Rent payable pursuant to the Lease shall be apportioned and paid through the effective date of such termination and Tenant shall vacate the Leased Premises on or before the effective date of such termination. Tenant shall have no claim against Landlord for the value of any

unexpired portion of the Lease Term, or for the value of any renewal or extension option herein contained, or for the value of any Leasehold Improvements. Notwithstanding anything contained herein or in the Lease, in the event that Tenant fails to vacate the Leased Premises on the date set forth in Landlord's notice of termination and vacation of the Leased Premises, Tenant shall be liable for and agrees to pay Landlord two times the total monthly installment of Minimum Annual Rent and Additional Rent which was payable in the month immediately prior to the effective termination date.

7. **REIT Limitations.** Notwithstanding any other provision of the Lease, neither Tenant nor any direct or indirect assignee or subtenant of Tenant may enter into any lease, sublease, license, concession or other agreement for use, occupancy or utilization of space in the Leased Premises which provides for a rental or other payment for such use, occupancy or utilization based in whole or in part on the net income or profits derived by any person from the property leased, occupied or utilized, or which would require the payment of any consideration which would not fall within the definition of "rents from real property", as that term is defined in Section 856(d) of the Internal Revenue Code of 1986, as amended.

8. **Brokers.** Tenant represents and warrants that it did not retain any broker, agent or real estate salesperson with respect to carrying out negotiations or any other dealings related to the Lease. Landlord represents and warrants that it retained Vornado/Charles E. Smith L.P., as its broker ("Broker"). Landlord, and not Tenant, shall compensate Broker according to a separate agreement. Landlord shall hold Tenant harmless from any claims arising out of Landlord's agreement with Broker. Additionally, Landlord agrees to pay all commissions and costs to any and all other brokers or agents entitled to any commission or compensation in connection with the Lease pursuant to the terms of separate agreements, and Landlord shall hold Tenant harmless therefrom.

9. **Notices to Landlord.** The Notices to be sent to Landlord, and the corresponding address contained in Section 1.12(b) of the original lease are hereby replaced as follows:

CESC Square L.L.C.  
c/o Vornado/Charles E. Smith L.P.  
2345 Crystal Drive, Suite 1000  
Arlington, Virginia 22202  
Attn: Chief Operating Officer

10. **Notices to Tenant.** The notices to be sent to Tenant, and the corresponding addresses, contained in Section 1.12(a) of the Lease are hereby replaced as follows:

The County Board of Arlington County, Virginia  
2100 Clarendon Boulevard, Suite 302  
Arlington, Virginia 22201  
Attn: County Manager

**With a copy to:**

Arlington County, Virginia  
Department of Environmental Services  
Engineering and Capital Projects Division  
2100 Clarendon Boulevard, Suite 900  
Arlington, Virginia 22201  
Attn: Real Estate Bureau Chief

**With a copy to:**

Arlington County, Virginia  
Department of Environmental Services  
Division of Transportation (DOT)  
2100 Clarendon Boulevard, Suite 900  
Arlington, Virginia 22201  
Attn: Commuter Services Chief

11. **Ratification.** The terms of the Lease, except as expressly amended this Fourth Lease Extension Agreement, hereby, shall remain in full force and effect.
12. **Governing Law.** The Lease, as Amended, shall be governed and construed according to the laws of the Commonwealth of Virginia and shall bind and inure to the benefit of the successors and assigns of the undersigned.
13. **Defined Terms.** Each capitalized term used in this Fourth Lease Extension Agreement shall have the same meaning ascribed to it in the Lease, unless specifically defined in this Fourth Lease Extension Agreement.
14. **Counterparts.** This Fourth Lease Extension Agreement may be executed in several counterparts and shall be valid and binding with the same force and effect as if all Parties executed the same Fourth Lease Extension Agreement.
15. **Conflicts.** To the extent that the provisions of this Fourth Extension conflict with any provisions of the Lease, such provisions of this Fourth Extension shall prevail and govern for all purposes and in all respects.
16. **Lease.** All of the terms and conditions of the Lease, except as modified by this Fourth Extension, shall remain in full force and effect; expressly provided however that, notwithstanding anything to the contrary, any cancellation option, renewal option, right of first offer or additional space option, however denominated, that Tenant has, or may be deemed to have, under the Lease or any amendment thereto shall be null, void and of no further force or effect as to the leased premises herein described.

**WITNESS** the signatures and seals of the Parties hereto.

**WITNESS FOR LANDLORD:  
LANDLORD: CESC SQUARE L.L.C.**

\_\_\_\_\_

By: \_\_\_\_\_(SEAL)

Name: Mitchell N. Schear

Title: Executive Vice President

Date: \_\_\_\_\_

**WITNESS FOR TENANT:**

**TENANT: THE COUNTY BOARD OF  
ARLINGTON COUNTY, VIRGINIA**

\_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
County Attorney

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**Exhibit A**  
**Page 1**

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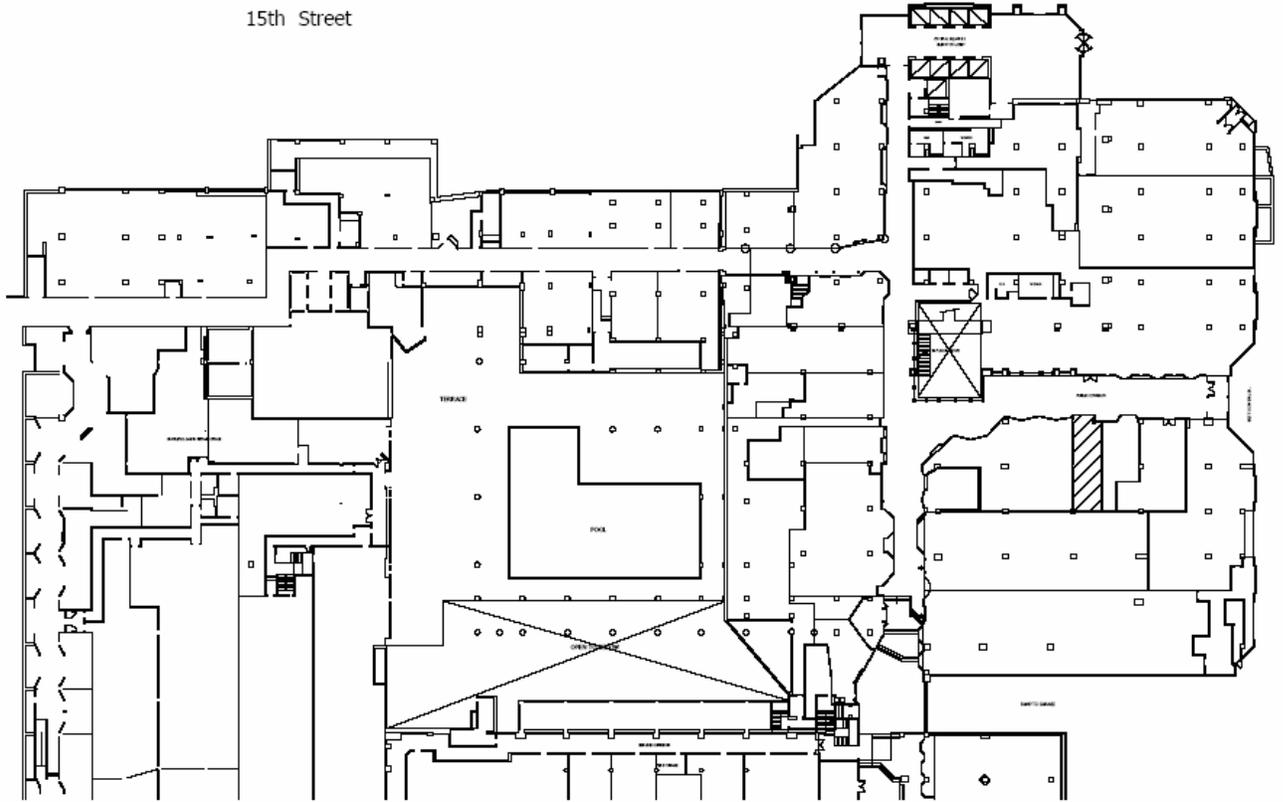
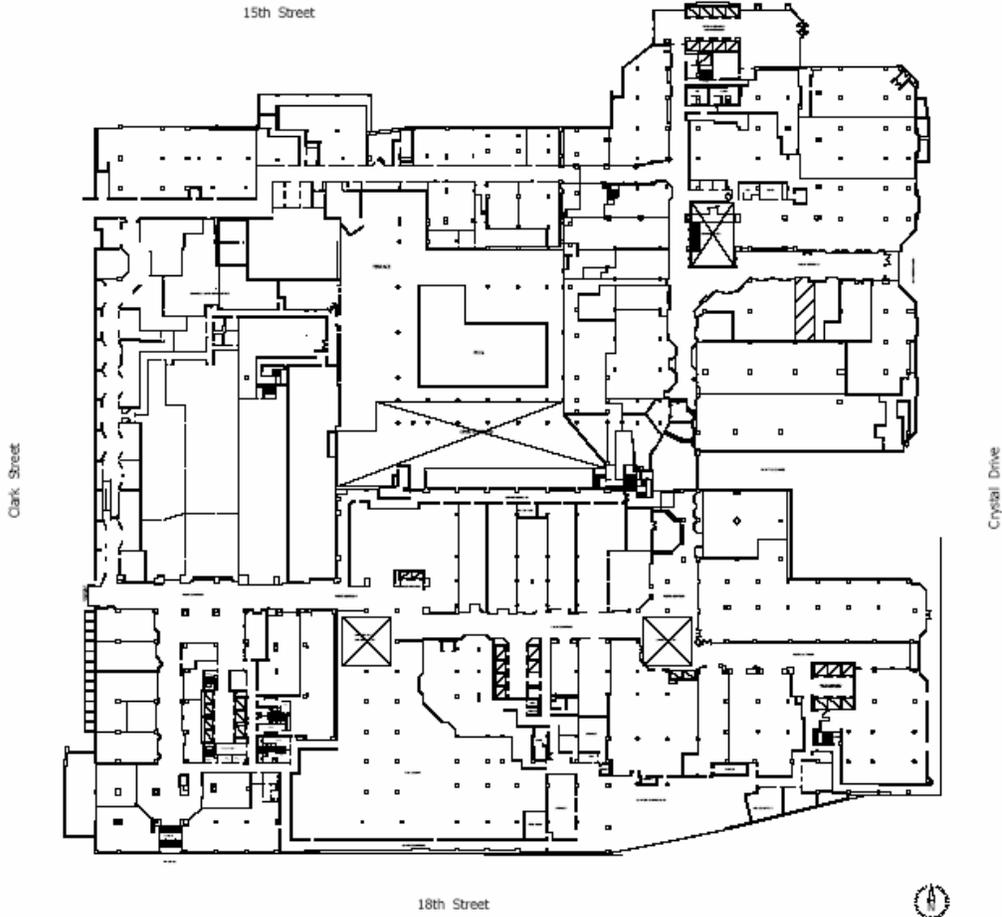


Exhibit A  
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ATTACHMENT 1 - Vicinity Map  
1615-B Crystal Arcade  
Arlington, Virginia  
RPC 34020248

