

ARLINGTON COUNTY, VIRGINIA



County Board Agenda Item
Meeting of July 19, 2008

SUPPLEMENTAL REPORT

DATE: July 17, 2008

SUBJECT: Approval of a Second Amendment to Amended and Restated Office Building Deed of Lease between VNO Courthouse I LLC, as Landlord, and The County Board of Arlington County, Virginia, as Tenant, for a Portion of the Tenth Floor at 2200 Clarendon Boulevard, Suite 1002, Arlington, Virginia 22202 (RPC #18004065).

DISCUSSION: Vornado has agreed to execute the attached revised Second Amendment, which includes non substantive revisions. More specifically, minor revisions were made to the following sections: Section 4 (second sentence, seventh line: inserted ..."and effectiveness"...); Section 5(a) (first sentence, first line: deleted the word "the" inserted "The"); Section 6 (last line, inserted: "Section 2"); Section 8(b) (third sentence, eighteenth line: deleted "æ" and inserted "with"; Section 8(c) (first line: deleted the words "and modify" and inserted "modify and"; and, inserted Section "17 **ENTIRE AGREEMENT:**".

County Manager: _____

County Attorney: _____

Staff: Linda DePersis, DES-Real Estate Bureau and Cynthia Hernan, DCPHD

**ATTACHMENT A
SECOND AMENDMENT TO AMENDED AND RESTATED
OFFICE BUILDING DEED OF LEASE**

THIS SECOND AMENDMENT TO AMENDED AND RESTATED OFFICE BUILDING DEED OF LEASE (this "Second Amendment") is made as of _____, 2008, by and between **VNO COURTHOUSE I LLC**, a Delaware limited liability company (successor-in-interest to CESC ONE COURTHOUSE PLAZA, L.L.C.) ("Landlord"), and **THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA**, a body politic ("Tenant").

RECITALS:

WHEREAS, Landlord's predecessor-in-interest, CESC One Courthouse Plaza, L.L.C., and Tenant entered into that certain Amended and Restated Office Building Deed of Lease dated October 23, 2002 (the "Original Lease") as amended by that certain First Amendment to Amended and Restated Office Building Deed of Lease, dated July 27, 2004 (collectively the "Lease") for certain premises comprising the entire first (1st), second (2nd), third (3rd), fourth (4th), fifth (5th), sixth (6th), seventh (7th), eighth (8th) and ninth (9th) floors, (the "Original Demised Premises") of the building known as #1 Courthouse Plaza and located at 2100 and 2200 Clarendon Boulevard, Arlington, Virginia 22201 ("Building") as shown on the attached Vicinity Map - see Attachment 1;

WHEREAS, on December 13, 2007, Landlord consented to a Sublease by Experience Works, Inc. to Tenant dated December 19, 2007, of approximately 23,400 rentable square feet of office space on a portion of the tenth (10th) floor, known as Suite 1000, in the Building ("Suite 1000");

WHEREAS, Tenant desires and, pursuant to the terms of this Second Amendment, Landlord agrees, to lease expansion space, consisting of approximately 3,104 rentable square feet of office space on the tenth (10th) floor of the Building, known as Suite 1002 ("Expansion Space"), to Tenant; and

WHEREAS, the Lease, as amended by the Second Amendment, is hereinafter referred to jointly 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 hereto agree as follows:

1. **RECITALS:** The foregoing recitals are incorporated herein by this reference as if fully set forth at this point in the text of this Second Amendment.

2. **INTEGRATION:** The recitals and following terms and conditions shall constitute part of the Lease, and be incorporated therein by reference.

3. **DEMISED PREMISES:** It is hereby acknowledged that the Expansion Space comprises 3,104 rentable square feet of office space. From and after the Expansion Space Commencement Date (as hereinafter defined), the term "Demised Premises" shall mean the Original Demised Premises and the Expansion Space.

4. **EXPANSION SPACE LEASE COMMENCEMENT AND EXPIRATION DATES:** The term of the Lease for the Expansion Space shall commence on August 1, 2008 ("Expansion Space Commencement Date"), and shall be coterminous with the Original Lease. However, if the parties hereto have not entered into a direct lease for Suite 1000 by March 31, 2013, the lease term for the Expansion Space shall automatically terminate on March 31, 2013 without notice or penalty. Such termination of the Lease with respect to the Expansion Space shall not affect in any manner the continued vitality and effectiveness of the Lease with respect to the Original Demised Premises.

5. **BASE ANNUAL RENT FOR THE EXPANSION SPACE:**

(a) **Initial Base Annual Rent for the Expansion Space:** The initial Base Annual Rent for the Expansion Space shall be in the annualized amount of One Hundred Seven Thousand Eighty-Eight and 00/100 Dollars (\$107,088.00) computed based upon the annual rent rate of Thirty-four and 50/100 Dollars (\$34.50) per rentable square foot. The initial Base Annual for the Expansion Space shall be payable in equal monthly installments of Eight Thousand, Nine Hundred Twenty-Four and 00/100 Dollars (\$8,924.00) for the first twelve (12) months following the Expansion Space Commencement Date (except as provided in Paragraph 5(b) below.

(b) **Base Annual Rent Increase:** Commencing on the first anniversary of the Expansion Space Commencement Date, and continuing cumulatively on every subsequent anniversary of the Expansion Space Commencement Date throughout the term of the Lease with respect to the Expansion Space, Base Annual Rent, for the Expansion Space, shall be increased by three percent (3%) pursuant to the following schedule.

Lease Dates	Annual Rent Rate per Square Foot	Base Rent Per Annum (annualized)	Base Monthly Rent
Year 1: 8/1/2008 - 7/31/2009	\$34.50	\$107,088.00	\$8,924.00
Year 2: 8/1/2009 - 7/31/2010	\$35.54	\$110,316.16	\$9,193.01
Year 3: 8/1/2010 - 7/31/2011	\$36.61	\$113,637.44	\$9,467.79
Year 4: 8/1/2011- 7/31/2012	\$37.71	\$117,051.84	\$9,754.32
Year 5: 8/1/2012 - 3/31/2013	\$38.84	\$120,559.36	\$10,046.61
If the Lease is not automatically terminated per Section 4:			
Year 5: 4/1/2013 - 7/31/2013	\$38.84	\$120,559.36	\$10,046.61
Year 6: 8/1/2013 - 7/31/2014	\$40.01	\$124,191.04	\$10,349.25
Year 7: 8/1/2014 - 7/31/2015	\$41.21	\$127,915.84	\$10,659.65
Year 8: 8/1/2015 - 7/31/2016	\$42.45	\$131,764.80	\$10,980.40
Year 9: 8/1/2016 - 7/31/2017	\$43.72	\$135,706.88	\$11,308.91
Year 10: 8/1/2017 - 7/31/2018	\$45.03	\$139,773.12	\$11,647.76
Year 11: 8/1/2018 -10/31/2018	\$46.38	\$143,963.52	\$11,996.96

6. **ADDITIONAL RENT:** Beginning on the first anniversary of the Expansion Space Commencement Date, Tenant shall pay its pro-rata share of Operating Expenses and Real Estate Taxes for the Expansion Space in excess of the Operating Expenses and Real Estate Taxes for the Base Year pursuant to the Original Lease. For the purposes of this Section 6, the terms “Additional Rent,” “Operating Expenses,” and “Real Estates Taxes” shall have the definitions used in the Original Lease. Tenant’s Pro-Rata Share of Operating Expenses and Real Estate Taxes with respect to the Expansion Space shall be calculated as set forth in Section 2.6 of the Original Lease based on the ratio of the portion of the Expansion Space and the rentable area of the Building. Notwithstanding the foregoing, the Base Year with respect to the Expansion Space shall be calendar year 2008. Such Additional Rent shall, except as otherwise provided herein, be paid and calculated in the same manner as set forth in Section 2 of the Original Lease, which Section 2 shall be deemed incorporated herein by reference as if fully set forth.

7. **NOTICES:** The addresses shown in Section 1.9 of the Original Lease are hereby replaced as follows:

(a) Address for Notices to Tenant:

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

(b) Address for Notices to Landlord:

VNO Courthouse I LLC
c/o Vornado/Charles E. Smith
2345 Crystal Drive, Suite 1000
Arlington, Virginia 22202
Attn: Mitchell N. Schear

And to:

Vornado/Charles E. Smith
2345 Crystal Drive
Suite 1000
Arlington, Virginia 22202
Attn: Division Counsel

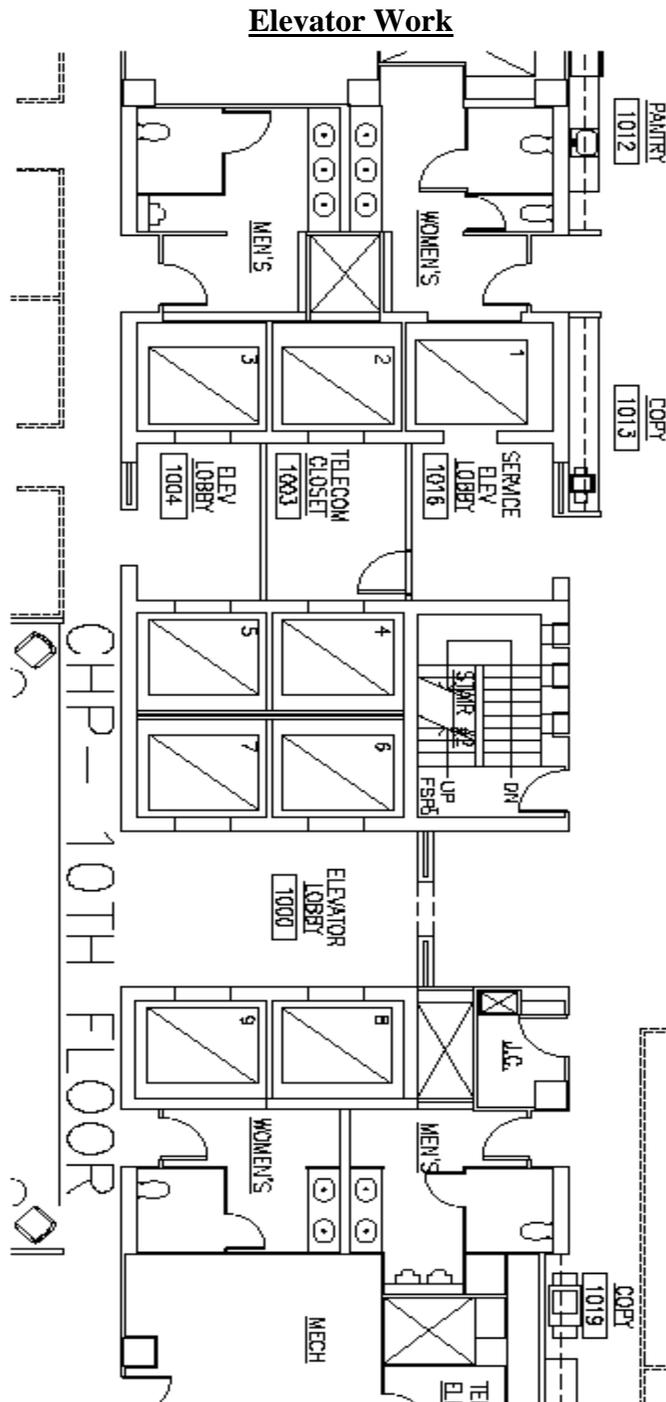
(c) Address for Payment of Rent:
VNO Courthouse I LLC
c/o Vornado/Charles E. Smith L.P.
P.O. Box 642078
Pittsburgh, Pennsylvania 15264-2078

8. ADDITIONAL BASE BUILDING WORK/TENANT IMPROVEMENTS:

(a) Landlord shall deliver, and Tenant shall accept, the Expansion Space in its “AS IS” condition on the Expansion Space Commencement Date. Landlord hereby represents and warrants that the Expansion Space is currently vacant and is not subject to any other lease agreement, the previous tenant’s lease of the Expansion Space having expired. In the event Landlord fails to deliver the Expansion Space on the Expansion Space Commencement Date, Tenant shall have the right to terminate this Second Amendment upon written notice to Landlord. Tenant, at its sole cost and expense, may remove the demising walls between the Expansion Space and Suite 1000 as shown on Exhibit A attached hereto and made a part hereof. Notwithstanding any other term or condition of the Lease to the contrary, Tenant is not required to restore the Expansion Space to its condition prior to the Expansion Space Commencement Date and, at the end of the term of the Lease with respect to the Expansion Space, Tenant may, but shall not be required to, remove any improvements or alterations to the Expansion Space performed by Tenant.

(b) Landlord shall, by the date that is one hundred twenty (120) days after the Expansion Space Commencement Date (the “Work Deadline”), reconfigure the four (4) existing elevators (shown on the drawing below as “6”, “7”, “8” and “9”) that presently serve floors 1-9 to allow access to the 10th floor from the lobby of 2100 Clarendon Boulevard (the “Elevator Work”); the costs of such reconfiguration are to be apportioned between Tenant and Landlord as follows: Tenant shall pay, within the time period and upon the terms and conditions provided below in this Section 8(b), up to a maximum of One Hundred Thirty Thousand Dollars (\$130,000.00) (“Tenant’s Contribution”), and Landlord shall pay the remainder of all costs for elevator reconfiguration to the tenth (10th) floor. Three (3) out of the five (5) existing elevators (shown on the drawing below as “1,” “3,” and “5”) currently servicing the Expansion Space from the lobby of 2200 Clarendon Boulevard shall remain accessible and operational to the 10th floor during the term of the Lease with respect to the Expansion Space, except if any modification to such access or operation is mutually agreed upon, in writing, by both Landlord and Tenant. The service for the other two (2) existing elevators (shown on the drawing below as “2,” and “4”) currently servicing the Expansion Space from the lobby of 2200 Clarendon Boulevard shall be disabled. Therefore, as provided above, two (2) out of the five (5) existing elevators shall not provide access to the 10th floor during the term of the Lease with respect to the Expansion Space. Landlord shall maintain the elevators in accordance with Section 3.2 of the Original Lease. Upon the final completion of the Elevator Work (as evidenced by the issuance, by Arlington County Inspection Services Division, of an elevator final inspection certificate), Tenant shall pay the Tenant’s Contribution to Landlord within thirty (30) days of Landlord’s written request and submission to Tenant of invoices evidencing the actual costs of the Elevator Work paid by Landlord to third parties for the Elevator Work; without addition by Landlord of administrative fees. In the event that Landlord fails to complete the Elevator Work by the Work Deadline, the Base Annual Rent for the Expansion Space due and payable under this Second Amendment shall

fully and unconditionally abate from the Work Deadline until the date that the Elevator Work has been finally completed.



(c) Landlord shall, at its sole cost and expense, modify and relocate the restrooms per the Tenant's specifications attached hereto and made a part hereof as Exhibit B-1, and Exhibit B-2 (the "Restroom Work") on or before the Work Deadline. Thereafter, Landlord

shall maintain the restrooms in accordance to the terms of the Lease. In the event that Landlord fails to complete the Restroom Work by the Work Deadline, the Base Annual Rent for the Expansion Space due and payable under this Second Amendment shall fully and unconditionally abate from the Work Deadline until the date that the Restroom Work has been finally completed (as evidenced by the issuance, by Arlington County Inspection Services Division, of a plumbing final inspection certificate).

(d) It is acknowledged that (i) Exhibit A attached hereto shows the interior layout of the Expansion Space as it currently exists prior to the performance by Tenant of its planned alterations thereto, and (ii) Exhibit B-2 attached hereto shows the planned interior layout configuration of the Expansion Space as incorporated into a single suite with Suite 1000, which planned interior layout configuration Landlord hereby approves.

9. **ADA COMPLIANCE:** Landlord shall ensure that the common areas of the tenth (10th) floor of the Building such as restrooms, public areas with access thereto, and elevators, are in compliance with all requirements of the current Americans with Disabilities Act (“ADA”), current VUSBC, ANSI, NFPA, U/L, Arlington County Fire and Life Safety Codes, and any other applicable regulations, standards and codes.

10. **LEEDS:** Landlord shall ensure that all plumbing fixtures (including, but not limited to lavatories, toilets, urinals) located in the common areas of the tenth (10th) floor of the Building are high efficiency, water conserving plumbing fixtures that meet LEED certified commercial interiors standards.

11. **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.

12. **GOVERNING LAW:** This Second Amendment and the remainder of the Lease 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 Second Amendment shall have the same meaning ascribed to it in the Lease, unless specifically defined in this Second Amendment.

14. **COUNTERPARTS:** This Second Amendment may be executed in several counterparts and shall be valid and binding with the same force and effect as if all of the parties hereto executed the same Second Amendment.

15. **CONFLICTS:** To the extent that the provisions of this Second Amendment conflict with any provisions of the Lease, such provisions of this Second Amendment shall prevail and govern for all purposes and in all respects.

16. **LEASE:** All of the terms and conditions of the Lease, except those which are hereby modified by this Second Amendment, shall remain in full force and effect and shall apply to the Expansion Space in the same manner as to the Original Demised Premises.

17. **ENTIRE AGREEMENT:** This Second Amendment, together with Exhibits A, A-1, B-1 & B-2 attached hereto and made a part hereof, contains and embodies the entire agreement of the parties hereto with respect to the subject matter hereof, and no representations, inducements, or agreements, oral or otherwise, between the parties with respect to the subject matter hereof not contained and embodied in this Second Amendment and said Exhibits shall be of any force or effect.

WITNESS the signatures and seals of the parties hereto.

WITNESS FOR LANDLORD:

LANDLORD:

VNO COURTHOUSE I LLC, a Delaware limited liability company

By: CESC One Courthouse Plaza L.L.C.,
its sole member

By: _____(SEAL)

Name: Mitchell N. Schear

Title: Executive Vice President

Date: _____

WITNESS FOR TENANT:

TENANT:

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

By: _____(SEAL)

Name: _____

Title: _____

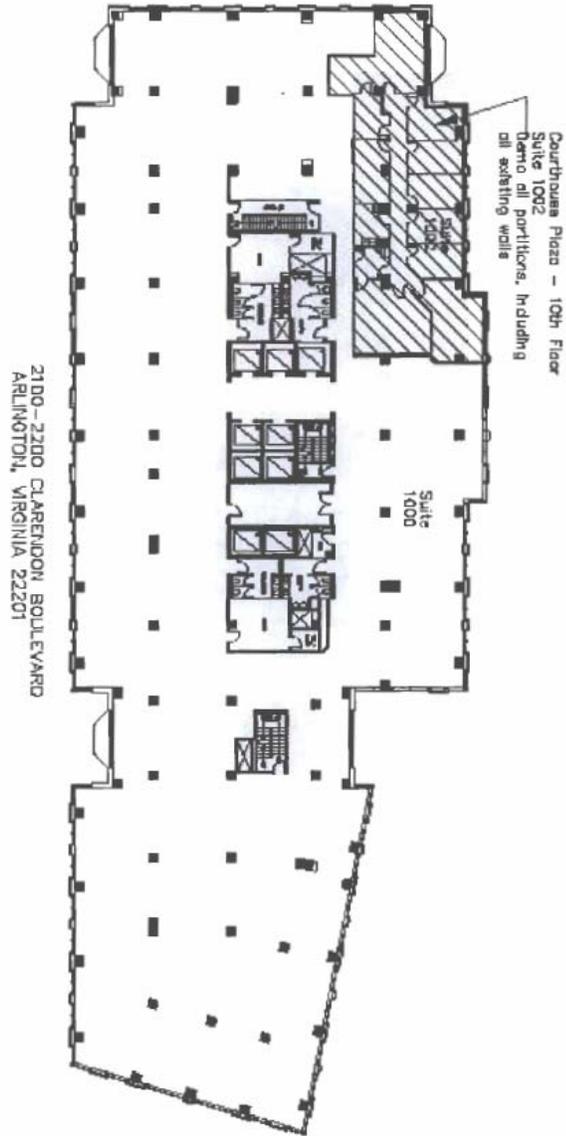
Date: _____

Approved as to form:

County Attorney

EXHIBIT A Floor Plan

Floor Plan for the Tenth Floor of the Building
Showing the Wall to be Demolished between Suite 1002 and Suite 1000



Floor Plan

Exhibit A-1
Floor Plan for the Tenth Floor of the Building
Showing the Wall to be Demolished between Suite 1002 and Suite 1000

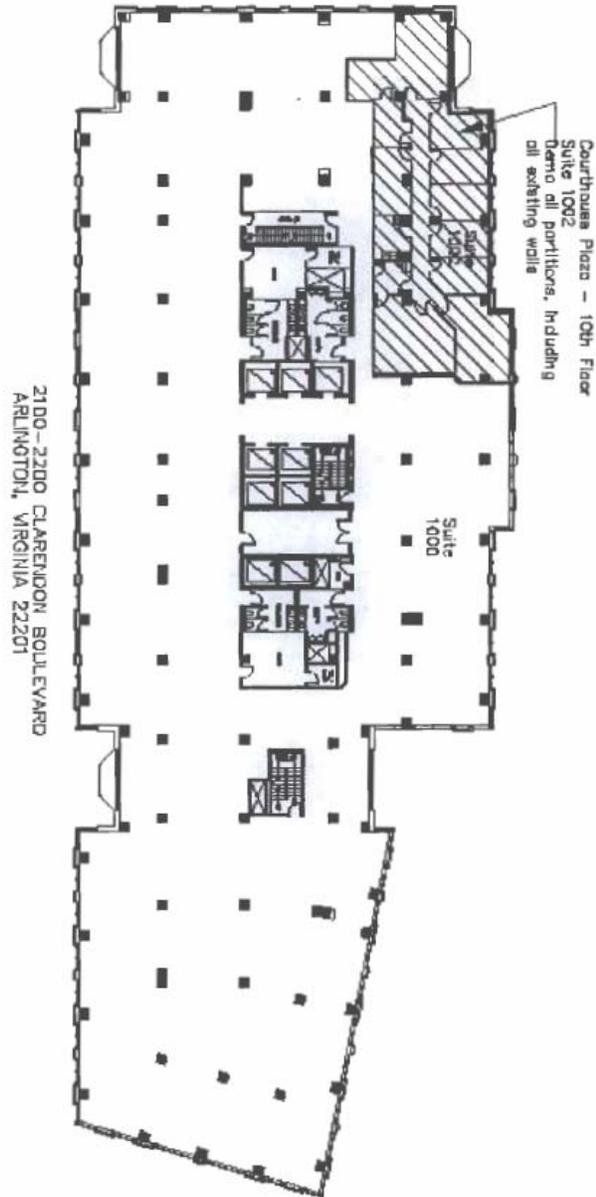
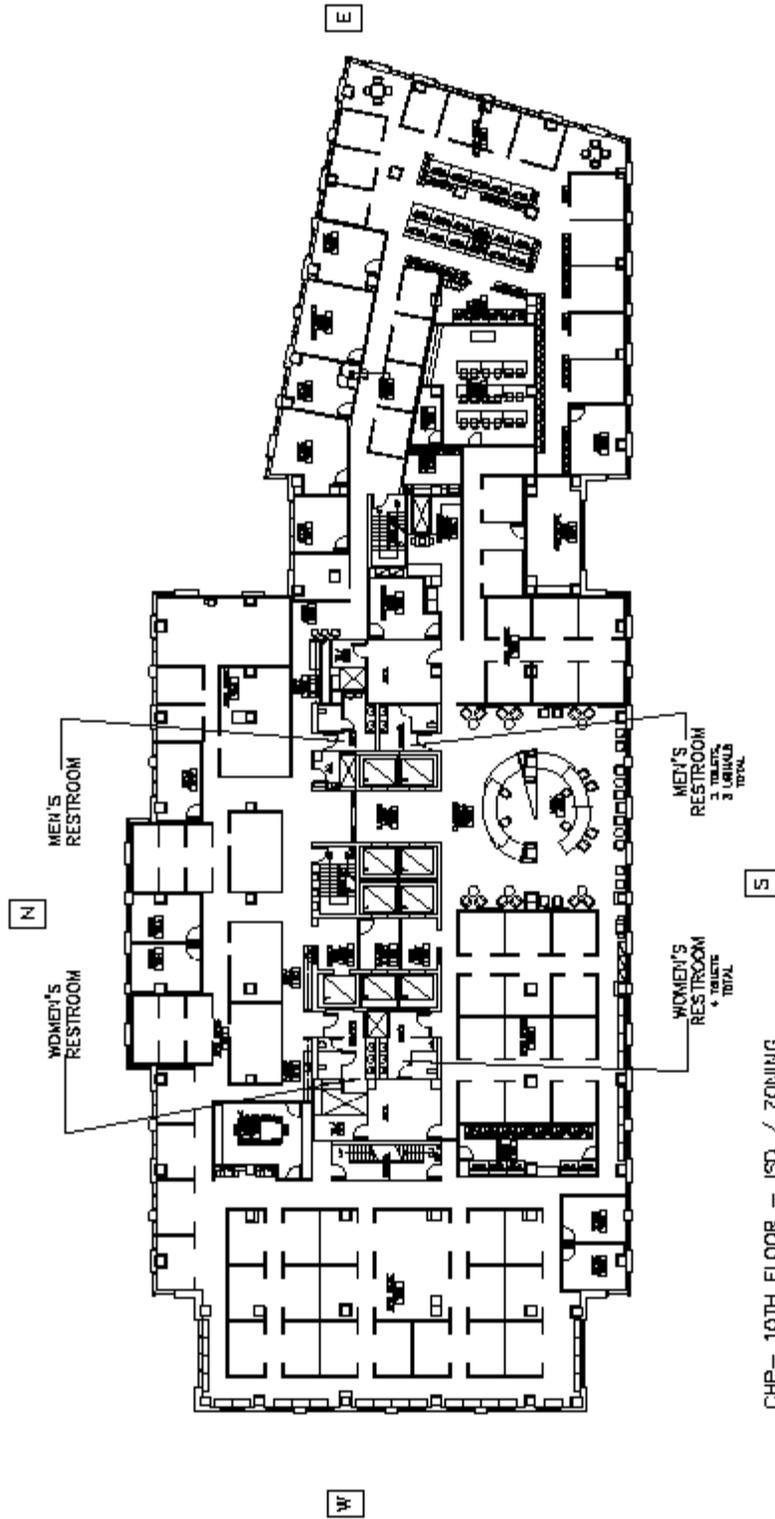


Exhibit B-1
Restroom Work

10th Floor Restrooms shall be modified as follows:

- ANSI 117.1, 2003, IBC (International Building Code) and 28 CFR (Code of Federal Regulations) Part 36, 1994 compliance standards shall be met. Should there be a contradiction between the 2 Codes, the more stringent requirement of the 2 shall prevail.
- The current East Women's Room shall be converted to a new Men's Room.
- The current West Men's Room shall be converted to a new Women's Room.
- See the attached sketch shown on Exhibit B-2.
- Modifications for ADA compliance.

Exhibit B-2
Tenant Improvement Sketch for the Restrooms



Attachment 1 - Vicinity Map
2100-2200 Clarendon Boulevard
Arlington, Virginia 22201
RPC #18004065

