

September 24, 2015

**Via Hand Delivery**

Mr. James Cole, CEO  
Virginia Hospital Center Arlington Health System  
1701 N George Mason Drive  
Arlington, Virginia 22205

**Re: Letter of Intent for Option to Purchase Real Property and Improvements at 1800 North Edison Street, Arlington, Virginia - RPC № 09-016-052**

Dear Mr. Cole:

Subject to the mutual execution and delivery of an acceptable option agreement ("Option Agreement"), this non-binding letter of intent sets forth, generally, the terms and conditions upon which The County Board of Arlington County, Virginia ("County") and Virginia Hospital Center Arlington Health System ("VHC") propose to grant and receive, respectively, the right(s) to purchase that certain parcel of improved real property located in Arlington County, Virginia, as more particularly described below. The terms and conditions of an Option Agreement include:

**Purchaser:** Virginia Hospital Center Arlington Health System ("VHC")

**Seller:** The County Board of Arlington County, Virginia ("County")

**Property:**

Approximately 5.5 acres of land located in Arlington County, Virginia together with improvements thereon having a civic address of 1800 North Edison Street, Arlington, VA and identified by Arlington County, VA, RPC #09-016-052 and as more particularly described in the Option Agreement (the "Property").

**Grant of Option:**

County shall grant to VHC the exclusive option to purchase the Property (the "Option"), exercisable by VHC during the period beginning on the later to occur of (i) a date to be specified in the Option Agreement, or (ii) the date that the Option Conditions (as hereinafter defined) are met, and ending at Midnight on a date to be specified in the Option Agreement (the "Option Term"). VHC shall exercise the option by providing written notice of the exercise of the Option to County. VHC also shall have the right to terminate the Option Agreement at any time prior to the expiration of the Option Term upon written notice of termination to County. Time shall be of the essence with respect to VHC's exercise of the Option.

**Option Conditions:**

VHC shall not have the right to exercise the Option unless and until the following conditions (the "Option Conditions") have been met:

- (i) If required by Virginia law, VHC shall have been issued a Certificate of Public Need by the Office of Licensure and Certification of the Virginia Department of Health (allowing the expansion on the Property of VHC's hospital); and
- (ii) VHC shall have received all necessary land use approvals, with all appeal periods applicable thereto having expired, for the expansion of the hospital (including both the

Mr. James Cole, CEO  
Virginia Hospital Center Arlington Health System  
September 24, 2015

Page 2

physical plant of the hospital and all associated uses) on the Property (the "Hospital Expansion"), including without limitation, a re-zoning, special exception site plan, phased development special exception site plan, and any necessary use permits (collectively, the "Land Use Approvals").

VHC shall make commercially reasonable efforts to achieve the Option Conditions in an expeditious manner. If, notwithstanding such efforts, the Option Conditions have not been met by the end of the Option Term or such other date specified in the Option Agreement, then the Option Agreement shall expire and be of no further force or effect without the necessity of any further action by either party.

**Purchase Price:**

The purchase price ("Purchase Price") for the Property shall be the higher of (i) an amount to be specified in the Option Agreement (the "Floor Amount"), or (ii) fair market value of the Property at the time of VHC's exercise of the Option taking into account the effects of the Land Use Approvals (the "Fair Market Value"), and which shall be due and payable at Closing (hereinafter defined) under the Option Agreement, which Purchase Price shall be subject to customary proration adjustments pursuant to the terms of the Option Agreement. County may, at its sole and absolute discretion, require the conveyance of title to one or more other properties owned by VHC (the "Exchange Properties") to County for all or a portion of the Purchase Price, which Exchange Properties shall also be valued at such properties' then fair market value for purpose of any exchange and are specifically described on Attachment One attached hereto. The Fair Market Value for the Property shall be as agreed upon by the Parties. If the Parties cannot promptly agree as to the Fair Market Value of the Property, the Fair Market Value shall be determined by a "Three Appraiser Method" described in the Option Agreement.

**Option Consideration:**

Upon the execution of the Option Agreement, VHC will, as consideration for the Option Agreement, pay to County a sum of money to be specified in the Option Agreement, and/or VHC will agree not to sell, convey or further encumber, between the effective date of the Option Agreement and any exercise of the Option granted thereby, certain parcels of real property owned by VHC to be specified in the Option Agreement (collectively, the "Option Consideration"). The Option Consideration shall be non-refundable, credited toward the Purchase Price at Closing if VHC exercises its Option and not subject to alienation or further encumbrance, except as otherwise provided in the Option Agreement.

**Credits, Prorations and Adjustments:**

The Purchase Price shall be subject to customary prorations and adjustments pursuant to the Option Agreement.

Mr. James Cole, CEO  
Virginia Hospital Center Arlington Health System  
September 24, 2015

Page 3

**Closing Costs:**

VHC shall pay the costs of the survey, title commitment, title policy and other related title costs and the deed recordation. If not exempt, County shall pay the grantors taxes and regional congestion relief fees on the deed. VHC and County shall evenly share any other fees and costs as is customary in transactions of this size and type in Northern Virginia. Each party shall pay its own legal fees and one half of any escrow or Closing fee.

**Option Agreement:**

Upon the execution of this Letter of Intent by both VHC and County, County will instruct its attorneys to prepare an initial draft of the Option Agreement embodying the terms hereinabove set forth and any other terms deemed advisable by County and reasonably acceptable to VHC. The Option Agreement shall include a default provision providing County with the right to all available remedies of default at law or equity. VHC's remedy for default against County shall be limited to an action for specific performance. The Option Agreement shall also include special provisions for the benefit of County in its capacity as a local government, including provisions that address appropriation of funds, role of the County under the Option Agreement, sovereign immunity, no indemnification or hold harmless, and no rights in third parties. The Option Agreement shall not be assignable.

**Condition of Title:**

The Option Agreement shall attach a then current title commitment, acceptable to VHC, and shall describe the exceptions to the Property title that are acceptable to VHC. At Closing, County will convey to VHC, by special warranty deed, fee simple title to the Property, subject to only the title exceptions described in the Option Agreement and including the Restrictive Covenant and Release (as hereinafter defined) and the Repurchase Option described below, as acceptable to VHC or otherwise approved in writing by VHC, which approval shall not be unreasonably withheld.

**Restrictive Covenant:**

At Closing VHC shall execute and deliver to the County for recordation a Restrictive Covenant (the "Restrictive Covenant and Release"). The Restrictive Covenant and Release shall, (i) release the Property from the then-existing restrictive covenant existing in favor of VHC, (ii) restrict the use of the Property for such future uses as are provided in the Option Agreement (the "Permitted Uses"), and (iii) be in form and substance acceptable to the County. A specimen of the Restrictive Covenant and Release shall be made an attachment to the Option Agreement.

Mr. James Cole, CEO  
Virginia Hospital Center Arlington Health System  
September 24, 2015

Page 4

**Repurchase Option:**

At Closing, VHC shall execute and deliver to County a repurchase option in favor of the County (the "Repurchase Option"). The Repurchase Option shall provide to the County the right to repurchase the Property for the Purchase Price paid to the County upon the circumstances described in the Option Agreement, including the following (as further defined in the Option Agreement):

- (i) VHC fails to vest the Land Use Approvals for the Hospital Expansion pursuant to, and within the time period required by, the Land Use Approvals or applicable law;
- (ii) VHC fails to substantially complete a significant portion of the Hospital Expansion (as such significant portion is defined in the Option Agreement) within a time period after the approved site plan for the Hospital Expansion vested pursuant to applicable law as such time period is defined in the Option Agreement; and/or
- (iii) After the substantial completion of such significant portion of the Hospital Expansion, VHC fails to actively and continuously use the Property for the Permitted Use for more than a time period defined in the Option Agreement)

all to be more fully described in the Option Agreement.

The form of the Repurchase Option shall be in form and substance acceptable to the County and shall be attached to the Option Agreement. All mortgages, deeds of trust, security interests, liens and other encumbrances shall be subordinate to the Repurchase Option.

**As-Is Condition:**

VHC agrees that the sale of the Property will be on an as is where-as basis.

**Investigation of the Property and any Exchange Properties:**

VHC shall have the right to enter the Property from time to time during the Option Term to investigate the Property. Throughout the Option Term, VHC shall have the right to conduct all reasonable and customary inspections and investigations with respect to the Property as VHC deems to be reasonable and prudent in order to satisfy itself with respect to the status of the Property, including among other things, as to (i) title and survey, books, records and service contracts, (ii) surveys, (iii) environmental conditions, and (iv) other documents pertaining to the Property. Additionally, the VHC may, at its own expense and upon prior notice to County, conduct environmental, engineering and toxicological surveys. VHC shall conduct any investigation and inspections of the Property in a manner so as not to interfere with the rights of any tenants, subtenants, licensees or other users and occupants of the Property. VHC will agree to repair any damage to the Property to the extent caused directly by VHC's investigation or inspections, at VHC's sole cost and expense. If the Purchase Price includes Exchange Properties, then the Option Agreement will address the County's rights to inspect and investigate such Exchange Properties and documents related thereto.

Mr. James Cole, CEO  
Virginia Hospital Center Arlington Health System  
September 24, 2015

Page 5

**Closing Date; Closing:**

The Option Agreement shall provide that, if the Option is timely exercised, then the closing (the "Closing") shall occur no later than the date that is specified for Closing in the Option Agreement; provided, however, VHC shall have the right to Close prior to the end of the Option Term but, in the case of a Closing prior to a date to be specified in the Option Agreement, VHC shall not be entitled to insist that the Property be delivered to VHC free and clear of tenants and occupants.

**No Tenants or Occupants:**

If VHC exercises the Option, then County shall deliver the Property to VHC at Closing free and clear of all tenants and occupants, except as otherwise provided in the Option Agreement.

**No Sale or Encumbrance of Property:**

County shall covenant not to sell or further encumber the Property, or any portion thereof, during the Option Term to any person or party other than VHC other than by a lease or license that will terminate, by its terms, prior to Closing. VHC shall be solely responsible for timely removing or ousting any tenants and/or licensees prior to Closing.

**Brokers and Real Estate Commissions:**

The Option Agreement shall confirm that neither party used a broker in connection with the sale of the Property.

**Non-Binding Nature of Letter of Intent:**

It is understood and agreed that the purpose of this Letter of Intent is to set forth the present mutual intent of VHC and County to endeavor to negotiate and attempt to enter into an Option Agreement by which the VHC shall have the right to purchase the Property from the County. Neither VHC nor County shall be legally bound to purchase or sell the Property unless and until an Option Agreement containing terms, conditions and provisions satisfactory to both VHC and County has been executed and delivered by both parties and approved by resolution, motion or other action of The County Board of Arlington County, Virginia.

If this letter satisfactorily sets forth your understanding of our present mutual intent with respect to the subject matter hereof, then please so indicate the same by executing and dating a copy of this letter in the place provided below, and by returning such copy, so executed to us within ten (10) business day(s) following your receipt hereof.

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

By: Mark Schwartz  
Mark Schwartz, Acting County Manager

Date: September 28, 2015

Mr. James Cole, CEO  
Virginia Hospital Center Arlington Health System  
September 24, 2015

Page 6

The foregoing terms are hereby acknowledged by VHC this 28<sup>th</sup> day of September 2015.

VHC:

VIRGINIA HOSPITAL CENTER ARLINGTON HEALTH SYSTEM, a Virginia corporation

By: James B. Cole Date: September 28, 2015  
Name: James B. Cole  
Title: President & CEO

## ATTACHMENT ONE

### Exchange Properties

As provided in the foregoing Letter of Intent, County shall have the right to require that, at the Closing, VHC shall convey the fee simple ownership of one or more of the Exchange Properties described below to County in lieu of a cash payment as part of the Purchase Price for the Property. (All capitalized terms that are used but not defined in this Attachment One are intended to have the meanings ascribed to such terms under the Letter of Intent.)

**Exchange Properties:** Those certain parcels of real estate located in Arlington County, Virginia, more particularly described as:

1. Parcel A of a Subdivision of the properties of Northern Virginia Doctors Hospital Corporation and NVDH Corporation, as the same is duly dedicated, platted and recorded in Deed Book 2022 at Page 739, among the land recordings of Arlington County, Virginia. [601 S. Carlin Springs Road, RPC No. 21-028-097] (the "*Carlin Springs Property*").
2. All of Lot One (1) of the Subdivision of Section One, Garden City, as the same is duly dedicated, platted and recorded in Deed Book 434 at page 469 among the land records of Arlington County, Virginia. [5267 Lee Highway, RPC No. 02-073-078]
3. All of Lot 1, and the Easterly Part of Lot 2 of the George A. Comley Subdivision, as the same is duly dedicated, platted and recorded in Deed Book 228, at page 488, among the land records of Arlington County, Virginia. [5278 Lee Highway, RPC No. 02-073-079]
4. Lot 2-X-1 of a resubdivision of Lot 2-X and a resubdivision of part of Lot 1, subdivision of Jefferson Property and part of Lot 2, William T.D. Dixon Estate, as recorded in Deed Book 1972, Page 298, among the land records of Arlington County, Virginia. [5226 Lee Highway, RPC No. 09-001-020]
5. Lot 2-X-2 of a resubdivision of Lot 2-X and a resubdivision of part of Lot 1, subdivision of Jefferson Property and part of Lot 2, William T.D. Dixon Estate, as recorded in Deed Book 1972, Page 298, among the land records of Arlington County, Virginia. [5232 Lee Highway, RPC No. 09-001-021]
6. Lot Number 2, Gordon Johnson's 3<sup>rd</sup> Addition to East Larchmont, as the same appears duly dedicated, platted and recorded in Deed Book 997 Page 464, among the land records of Arlington County, Virginia. [5138 16<sup>th</sup> Street N., RPC No. 09-031-009]
7. Lot Number 4, Gordon Johnson's 3<sup>rd</sup> Addition to East Larchmont, as the same appears duly dedicated, platted and recorded in Deed Book 997 Page 464, among the land records of Arlington County, Virginia. [5130 16<sup>th</sup> Street N., RPC. No. 09-031-011]

(collectively, the "*Exchange Properties*")

**Memorandum of County Rights:** Upon the execution and delivery of the Option Agreement, a Memorandum of Option Agreement, in form and substance acceptable to County, shall be recorded in the land records as an encumbrance upon each of the Exchange Properties.

**Lender Recognition:** Upon the execution and delivery of the Option Agreement, VHC shall provide County with executed Recognition Agreements, in form and substance acceptable to County, by which all of VHC's mortgage lenders who are currently secured by one or more of the Exchange Properties (the "*Existing Mortgages*") recognize and subordinate to County's rights to purchase one or more of the Exchange Properties pursuant to the terms of the Option Agreement.

**Existing Leases:** The Option Agreement shall address the obligations of VHC concerning any leases, licenses or other occupancy agreements (collectively, the "*Existing Leases*") applicable to any of the Exchange Properties.

**No Additional Encumbrances:** Except as otherwise provided in the Option Agreement, VHC shall not be entitled to amend, extend, expand or otherwise modify any of the Existing Leases without County's prior written consent, which consent may not be unreasonably withheld. It shall be reasonable for County to deny its consent if County determines that the proposed modification of any Existing Leases could hinder County's ability to timely obtain the full use of or utilize the applicable Exchange Property for County uses after Closing. VHC shall not convey or grant any right, lien or interest in, on or upon any of the Exchange Properties without County's prior written consent, which consent not be unreasonably withheld. It shall be reasonable for County to deny its consent if County determines that the proposed grant of right, lien or interest could hinder County's ability to timely obtain the full use of or utilize the applicable Exchange Property for County uses after Closing. Without limiting the foregoing, VHC shall not grant any mortgage or deed of trust (other than the Existing Mortgages) on any of the Exchange Properties or enter into any lease, license or occupancy agreement with respect to any of the Exchange Properties, except as otherwise permitted in the Option Agreement.

**County's Election of Exchange Properties:** Within a number of days, to be specified in the Option Agreement, County shall provide VHC with a written notice designating which, if any, of the Exchange Properties County has elected to receive the conveyance of at Closing. All Exchange Properties shall be valued at their then fair market values as established in accordance with the Option Agreement. If County fails to timely so designate which, if any, of the Exchange Properties County has elected to receive the conveyance of at Closing, County shall be deemed to have elected not to receive the conveyance of any of the Exchange Properties. If County timely elects to receive the conveyance of one or more of the Exchange Properties, County and VHC shall within a number of days, to be specified in the Option Agreement, after County's election as aforesaid, enter into a Purchase and Sale Agreement, in form and substance acceptable to County and attached as an Exhibit to the Option Agreement (the "*Purchase Agreement*") by which VHC shall sell, and County shall Purchase, the selected Exchange Property(s) (the "*Selected Exchange Properties*"). County's purchase of the Selected Exchange Properties shall close simultaneously with VHC's purchase of the Property under the Option Agreement. In the event of any inconsistency between the terms of the Purchase Agreement and the terms of the Option Agreement with respect to the timing of Closing thereunder, the terms of the Purchase Agreement shall control.

**Purchase Price for the Selected Exchange Properties:** All Selected Exchange Properties shall be valued at their then fair market values as established in accordance with the Option Agreement and, if not agreed to by the Parties, pursuant to the same Three Broker Method as



used for the determination of the Fair Market Value for the Property. If the aggregate fair market value of the Selected Exchange Properties is less than the Purchase Price of the Property under the Option Agreement, then VHC shall pay County the differential in cash at Closing. If the aggregate fair market value of the Exchange Properties is greater than the Purchase Price of the Property, then County shall pay the differential to VHC at Closing.

**Urgent Care Facility:** In the event that the Carlin Springs Exchange Property is acquired by the County and the County does not desire to allow the existing Urgent Care Facility to remain, VHC will agree to provide an Urgent Care Facility or additional urgent care services in South Arlington by means to be described in the Option Agreement.

**Due Diligence on Selected Exchange Properties:** The County's rights to, and the timing of, any due diligence, property inspections and investigations relating to conveyance of the Exchange Properties will be addressed in the Option Agreement.

**Credits, Pro-rations, Adjustments and Closing Costs:** Credits, pro-rations, adjustments and closing costs associated with conveyance of the Selected Exchange Properties from VHC to the County will be made or paid as described in the Option Agreement.

**Purchase Agreement:** The Purchase Agreement and the Option Agreement shall be cross-defaulted, and any default under either agreement shall be considered to be a default under both agreements. The Purchase Agreement shall include a default provision providing County with the rights to all available remedies of default at law or equity. The Purchase Agreement shall also include special provisions for the benefit of County in its capacity as a local government, including provisions that address appropriation of funds, role of the County under the Purchase Agreement, sovereign immunity, no indemnification or hold harmless, and no rights in third parties. The Purchase Agreement shall not be assignable.

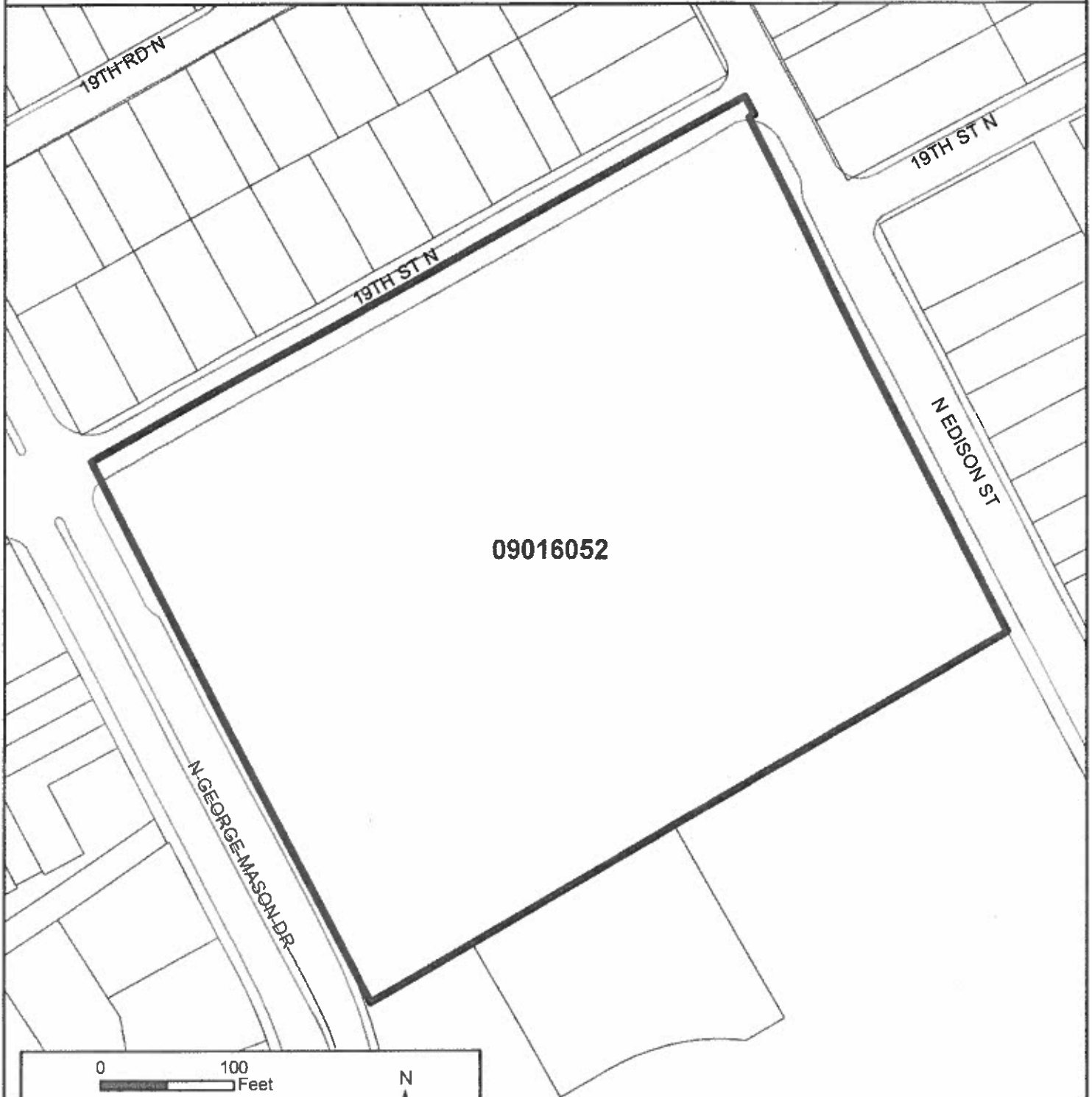
**Closing Date:** The Closing Date and timing in relation to any due diligence or property inspections/investigations required for conveyance of the Selected Exchange Properties from VHC to the County will be addressed in the Option Agreement.

**Operation of the Exchange Properties:** VHC agrees that, from and after the execution of the Option Agreement through Closing, the Exchange Properties shall be operated in accordance with present operational standards.

**Brokers and Real Estate Commissions:** The Purchase Agreement shall confirm that neither party used a broker in connection with the sale of the Selected Exchange Properties.

# Vicinity Map

1800 North Edison Street  
RPC # 09-016-052



09016052

0 100 Feet



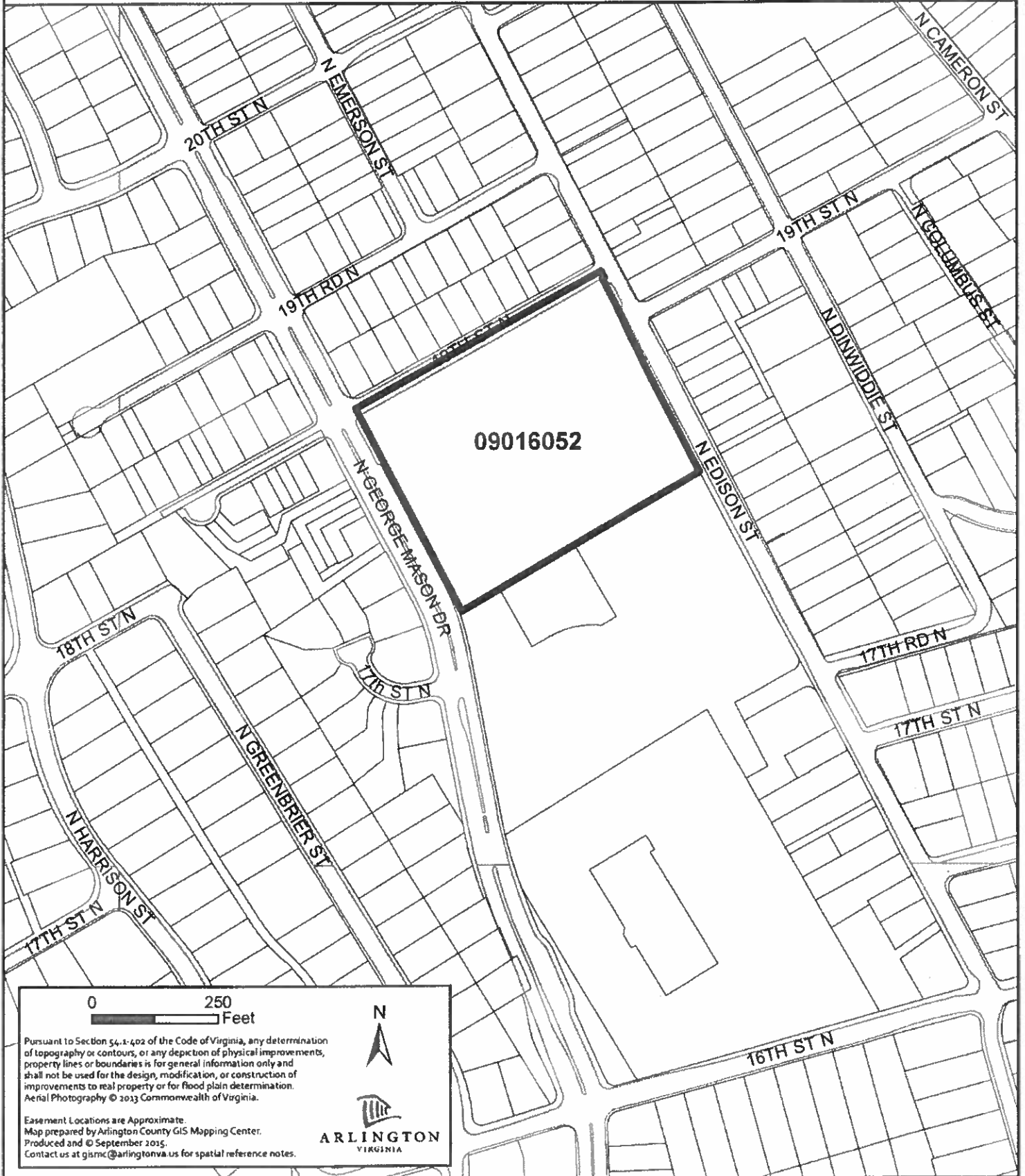
Pursuant to Section 54.1-402 of the Code of Virginia, any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination. Aerial Photography © 2013 Commonwealth of Virginia.

Easement Locations are Approximate.  
Map prepared by Arlington County GIS Mapping Center.  
Produced and © September 2015.  
Contact us at [gismc@arlingtonva.us](mailto:gismc@arlingtonva.us) for spatial reference notes.



# Vicinity Map

1800 North Edison Street  
RPC # 09-016-052



0 250 Feet



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 © 2013 Commonwealth of Virginia.

Easement Locations are Approximate.  
Map prepared by Arlington County GIS Mapping Center.  
Produced and © September 2015.  
Contact us at [gismc@arlingtonva.us](mailto:gismc@arlingtonva.us) for spatial reference notes.



# Vicinity Map

1800 North Edison Street  
RPC # 09-016-052



09016052

0 100 Feet



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 © 2013 Commonwealth of Virginia.

Easement Locations are Approximate  
Map prepared by Arlington County GIS Mapping Center  
Produced and © September 2015  
Contact us at [gisrc@arlingtonva.us](mailto:gisrc@arlingtonva.us) for spatial reference notes.

