



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of May 14, 2011**

**DATE:** May 10, 2011

**SUBJECT:** Approval of a License Agreement among Washington Metropolitan Area Transit Authority, Ballston Metro Investors, LLC and County Board of Arlington County, Virginia for Construction and Location of a Kiosk for a Commuter Store Located on a Portion of Parcel A, Block 1, Centre Ballston, Ballston Metro Center Office, 4230 Fairfax Drive and 901 North Stuart Street, Arlington, Virginia (RPC # 14-049-PLA).

**C. M. RECOMMENDATION:**

1. Approve the attached License Agreement for Construction and Location of a Kiosk for a Commuter Store located on a Portion of Parcel A, Block 1, Centre Ballston, Ballston Metro Center Office, 4230 Fairfax Drive and 901 North Stuart Street, Arlington, Virginia (RPC # 14-049-PLA).
2. Authorize the Real Estate Bureau Chief, or his designee, to execute on behalf of the County Board, the License Agreement and all related documents, subject to approval as to form of the License Agreement by the County Attorney.

**ISSUES:** The License Agreement is required for the County to construct and operate a temporary kiosk for a Commuter Store on a portion of property owned by the Washington Metropolitan Area Transit Authority and ground leased to Ballston Metro Investors, LLC. There are no issues identified with this request.

**SUMMARY:** In order to obtain permission to install, use and operate a temporary kiosk on a portion of property owned by WMATA and ground leased by WMATA to Ballston Metro Investors, LLC, the County must enter into the License Agreement, attached to this report as Attachment 1. The proposed License Agreement is for a five year term, with an option for the County to extend the License Agreement for one additional term of five years.

**BACKGROUND:** WMATA is the fee simple owner of a parcel of land described as Parcel A, Block 1, Centre Ballston (the "Property"). The subject area proposed to be licensed to the County (the "License Area") is located on the northwest portion of the plaza fronting on North

County Manager:

County Attorney:

**3. B.**

Staff: Michael Halewski, Linda Eichelbaum Collier, Real Estate Bureau

Fairfax Drive, immediately adjacent to the WMATA escalators leading to and from the Ballston Metro stop. The location of the Property and the License Area are more particularly shown on the Vicinity Maps, attached to this report as Attachments 2, 3, and 4. Ballston Metro Investors, LLC is the ground lessee of the Property, upon a portion of which Property Ballston Metro Investors, LLC has constructed a multi-story commercial office building, known as Ballston Metro Center Office (the "Building"). The Property and the Building are subject to Site Plan #240, originally approved by the County Board on January 4, 1986. In order to permit installation of the kiosk on the Property, a minor amendment to the Site Plan must be granted (which minor amendment to the Site Plan is the subject of a separate County Board action).

**DISCUSSION:** The License Agreement permits the County to construct, install, maintain, and remove a concrete pad and a removable prefabricated kiosk upon a portion of the Property according to the plans attached to the License Agreement. WMATA and Ballston Investors are granting this License Agreement to the County for nominal consideration. The term of the License Agreement commences on June 1, 2011 and runs for five years, with an option for the County to extend the License Agreement for another five years. The License Agreement grants the County the right to construct the kiosk and operate a Commuter Store retail operation therein. Under the terms of the License Agreement, the County agrees to maintain the kiosk in good repair and to pay for electricity, telephone, and internet usage, as well as the future removal of the kiosk and related equipment from the License Area. The County must submit the final kiosk sections and finish materials to the Building owner for its review and approval, which shall not be unreasonably withheld, conditioned, or delayed. Finally, the License Agreement may be terminated unilaterally by any party upon 180 days prior written notice to the non-terminating parties; the License Agreement may also be terminated with less than 180 days prior notice if such termination is mutually agreed to by all parties. Upon the expiration or earlier termination of the License Agreement, the County is required to return the License Area to the same condition existing upon the date the kiosk is installed.

**FISCAL IMPACT:** There is no fiscal impact associated with the License Agreement. The kiosk structure and installation, including the installation of all associated electrical and telephone equipment, is funded by a Virginia Department of Rail and Public Transportation grant.

## LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the “License”) is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, among the WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY, a regional body corporate and politic organized pursuant to Public Law 89-774, 80 Stat. 1324; Maryland Acts of General Assembly, Chapter 869-1965; Virginia Acts of Assembly, Chapter 2-1966; and Resolution of D.C. Board of Commissioners adopted November 15, 1966 (“Owner” or “WMATA”), Licensor; BALLSTON METRO INVESTORS, LLC, a Virginia limited liability company (“Ground Lessee”), Licensor; and COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body politic (the “County” or the “County Board”), Licensee. The Owner and Ground Lessee are sometimes hereinafter jointly referred to as the “Licensors”. The Licensors and the Licensee are sometimes hereinafter jointly referred to as the “Parties.”

### RECITALS

WHEREAS, WMATA is the fee simple owner of all that certain parcel of land known as Parcel A, Block 1, Centre Ballston, containing 1.65562 acres, more or less (the “Property”), as the same appears duly dedicated, platted and recorded in Deed Book 2289 at page 276 among the land records of Arlington County, Virginia (the “Land Records”), by virtue of the following instruments recorded among the Land Records: Deed Book 1855 at Page 496; Deed Book 1857 at Page 760; Deed Book 1857 at Page 762; Deed Book 1867 at Page 809; Deed Book 1871 at Page 346; Deed Book 1879 at Page 804; Deed Book 1926 at Page 509; and Deed Book 1935 at Page 454;

WHEREAS, Ground Lessee is the ground lessee of the Property, by virtue of the an Agreement of Assignment and Assumption of Ground Lease recorded in Deed Book 3787 at

Page 1889 among the Land Records. The Ground Lessee is also the owner of a multi-story commercial office building, known as the Ballston Metro Center Office, located at 4230 Fairfax Drive and 901 North Stuart Street (the “Building”). The Building exists upon a portion of the Property;

WHEREAS, the Licensee desires to install, use, and operate a temporary kiosk on a portion of the Property for the operation of a Commuter Store;

WHEREAS, the Property and the Building are subject to Site Plan SP# 240, originally approved by the County Board on January 4, 1986, and thereafter amended, on file in the Zoning Office of Arlington County, Virginia (the “Site Plan”);

WHEREAS, a minor amendment to the Site Plan is necessary to allow the installation of the kiosk on a portion of the Property for the operation of a Commuter Store; and

WHEREAS, by this License, the Licensors grant to the Licensee, and the Licensee accepts, a license for the use of a portion of the Property upon the terms and conditions hereinafter provided.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the premises, the sum of ONE DOLLAR (\$1.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Licensors hereby license to the Licensee the Licensed Premises, as hereinafter described.

1. LICENSED PREMISES

The “Licensed Premises” consist of the following:

A. a one hundred seventy-six (176) square foot portion of the Property for the installation of the concrete pad and a removable prefabricated kiosk structure occupying one hundred fifty (150) square feet of space (jointly, the “Kiosk”), as more particularly described

and depicted as “Concrete Pad” on the plans entitled, “Ballston Commuter Store Minor Site Plan Amendment Application (SP#240) North Fairfax Drive – From N. Stafford St. to N. Stuart St. Arlington County Project Number: BTSP WMTA Project Number: PCN 250731”, dated March 16, 2011, and prepared by the Department of Environmental Services, Division of Engineering and Capital Projects, Arlington County, Virginia (the “Construction Plans”), which Plans have been approved by the Licensors, as evidenced by Licensors’ execution of this License Agreement, and are attached hereto and incorporated herein as Exhibits A-1 through A-4 subject to final approval by Ground Lessee of kiosk design including materials, finishes, and associated sections, details and HVAC details which are not included in the specified exhibits. Such approval shall be in writing, and shall not be unreasonably withheld, conditioned or delayed. Such written approval, or denial with comment, shall be provided promptly to the Licensee (within five (5) business days) after Ground Lessee receives from the Licensee (or its contractor) samples of all such materials, finishes, and associated drawings, sections, details and HVAC details which are proposed to be ordered from the Kiosk manufacturer;

B. that portion of the Property (the “Electric/Telephone Connection”) more particularly described and depicted on the plans entitled “Ballston Metro Center Commuter Store, 901 N. Stuart Street, Arlington, VA”, dated November 29, 2010, and prepared by CECA, LLC\_(the “Electric/Telephone Plans”), which Electric/Telephone Plans have been approved by the Licensors, as evidenced by Licensors’ execution of this License Agreement, and are attached hereto and incorporated herein as Exhibits B-1 through B-3, for the installation, by or on behalf of the Licensee to the Building, of electrical and telephone connections from the Building to the Kiosk. All electrical and telephone lines and related equipment will be contained within the Building ceilings and walls and will not be visible within the Building without the prior written

consent of Ground Lessee. At the expiration or earlier termination of the License, the disturbed portions of the Building containing such lines and equipment shall be restored to the condition existing prior to the commencement of such work.

C. The Construction Plans and the Electric/Telephone Plans are jointly referred to hereinafter as the “Plans”.

2. TERM

The License shall have a term of five (5) years (the “Term”), commencing on the 1st day of June, 2011, (the “Commencement Date”), and, ending on the 31st day of May, 2016 (the “Expiration Date”), unless sooner extended pursuant to Section 3 or terminated pursuant to Section 9.

3. OPTION TO EXTEND TERM

The Term of the License may be extended by the Licensee, upon the same terms and conditions, for one (1) additional five (5) year term. To exercise such option, the Licensee shall provide written notice to the Licensors, which notice must be received by the Licensors not less than one hundred eighty (180) days prior to the Expiration Date. The additional five (5) year term shall thereafter begin on the Expiration Date, without the necessity of and further action by the Parties, and end five (5) years thereafter, unless sooner terminated pursuant to Section 9 (the “Extended Term”).

4. USE; TEMPORARY CONSTRUCTION AREA

A. The Licensee, its employees, contractors, and agents, may use and occupy the Licensed Premises for the purposes of installing, placing, using, operating, maintaining, repairing, replacing, and removing, at the Licensee’s sole cost and expense, the Kiosk in the dimensions and locations shown on the Plans, including the installation and ongoing

maintenance of a concrete pad and all utilities necessary for the operation of the Kiosk, and all permitted signage as shown on the Plans, all as approved by the Licensors, as evidenced by Licensors' execution of this License Agreement. The Kiosk shall be solely owned by the Licensee. The Licensee, through a County contractor, may operate a Commuter Store commercial retail operation within the Kiosk. The Licensors shall not receive keys to the Kiosk, or otherwise be permitted to enter the Kiosk. Notwithstanding the foregoing, either of the Licensors may forcibly enter the Kiosk if such Licensor determines that an emergency affecting the Property, Licensors' infrastructure located on the Property, and/or utility service to the Property exists. The Licensors shall immediately notify the Licensee by telephoning the Director of the Division of Transportation, Arlington County Department of Environmental Services, at (703) 228- 0588 of such entry. The Licensors shall also provide written notification to the Licensee within no more than twenty-four (24) hours after such forcible entry. In the event of such emergency entry, WMATA and Ground Lessee shall not be responsible for the cost of repairing that portion of the Kiosk damaged by the force used to gain entry. The Kiosk and all appurtenances shall be removed by the Licensee at its sole cost and expense at the end of the Term or the Extended Term or at the termination of this Agreement.

By this License, the Licensors hereby further grant to the Licensee and its employees, contractors and agents, installing, operating, maintaining, or using the Kiosk, the right to access and use the restrooms in the main lobby of the Building, which restrooms are more particularly described and depicted on the floor plan attached hereto as Exhibit C, during the hours of 5:00 AM and 11:59 PM, Monday through Friday, and 7:00 AM and 11:59 PM, Saturday and Sunday, subject to changes in such hours as established from time to time by the Ground Lessee in the building rules and regulations attached hereto as Exhibit D.

During the construction and installation of the Kiosk, Licensee shall install and maintain necessary safety and other barriers on the Property to protect WMATA facilities, the Ground Lessee's improvements, patrons, and employees on the Property. In no event shall the construction of the Kiosk interfere with WMATA Metrorail operations or the access to (or operation of) the Ground Lessee's improvements.

B. The Owner and the Ground Lessee permit the County, its employees and contractors initially to use that portion of the Property (the "Initial Temporary Construction Area") more particularly described and depicted as "Limit of Demolition Area +/- 16' x 24'" on the Construction Plans (which Construction Plans have been approved in writing by the Owner and the Ground Lessee) for the removal of existing brick pavers, regrading/leveling, laying forms, and constructing the concrete pad. Such permission for the initial construction shall begin on the Commencement Date of this License Agreement and shall end on the first to occur of: i) completion of the demolition and construction of the concrete pad; or ii) 150 days after the Commencement Date.

##### 5. MAINTENANCE OF KIOSK AND LICENSED PREMISES

A. During the Term and the Extended Term, the Licensee shall maintain the Kiosk and all appurtenances thereto in good repair and in a clean and attractive appearance.

B. The Ground Lessee may enter any portion of the Licensed Premises, (excluding the Kiosk), to clean, maintain, repair, or replace ("Work") landscaping, pedestrian sidewalks, pavers, and/or facilities, which Work the Ground Lessee is obligated to perform pursuant to this License, the Site Plan, or otherwise. No such Work shall be the responsibility or obligation of the Licensee.

6. UTILITIES AND ACCESS

A. All electrical service usage to the Kiosk shall be separately metered and all cost of such electricity used by Licensee for the Kiosk shall be borne solely by the Licensee. The Licensee, through an electrical contractor approved in advance in writing by the Ground Lessee, may, upon at least five (5) business days prior written notice from the Licensee to the Ground Lessee, have the right to access the electrical room in the Building, which electrical room is more particularly described and depicted on the Electric/Telephone Plans, for the installation and maintenance, by or on behalf of the Licensee, of an electrical sub-meter and all necessary electrical connections in the Building to provide electrical service to the Kiosk. Such written notice shall include the date(s) and time(s) when Licensee's electrical contractor will require access to the electrical room in the Building. The Licensee's electrical contractor shall be accompanied by a representative of the Ground Lessee. The Ground Lessee shall have a representative available to accompany the Licensee's electrical contractor on the date(s) and time(s) provided in Licensee's prior written notice. All plans for the installation and maintenance of an electrical sub-meter and all necessary electrical connections in the Building to provide electrical service to the Kiosk shall be approved promptly in advance in writing by the Ground Lessee. All installation and maintenance work shall be performed at the Licensee's sole cost and expense; and

B. The Licensee, through a telecommunications contractor approved promptly in advance in writing by the Ground Lessee, may, upon at least five (5) business days prior written notice from the Licensee to the Licensor, have the right to access the telephone closet in the Building, which telephone closet is more particularly described and depicted on Electric/Telephone Plans, for the installation and maintenance, by or on behalf of the Licensee,

of all equipment necessary for the provision of telephone and high speed internet service to the Kiosk. Such written notice shall include the date(s) and time(s) when Licensee's telecommunications contractor will require access to the electrical room in the Building. The Licensee's telecommunications contractor shall be accompanied by a representative of the Ground Lessee. The Ground Lessee shall have a representative available to accompany the Licensee's telecommunications contractor on the date(s) and time(s) provided in Licensee's prior written notice. All plans for the installation and maintenance of all equipment necessary for the provision of telephone and high speed internet service to the Kiosk shall be approved promptly in advance in writing by the Ground Lessee. All installation and maintenance work shall be performed at the Licensee's sole cost and expense.

C. Ground Lessee and the Licensee shall take all actions necessary for direct billing to the Licensee from both the electrical company and the telephone service provider for the electrical and telephone service provided to the Kiosk.

## 7. INSURANCE

The Licensee shall cause its contractors, including its Commuter Services contractor operating the Kiosk, to maintain a policy of commercial general liability insurance, throughout the Term and the Extended Term, issued by an insurance company licensed to do business in the Commonwealth of Virginia and rated not lower than A-X in the A.M. Best Rating Guide. Such insurance policies shall provide coverage for claims arising from, or in connection with, the exercise of the permission granted hereunder by this License for personal injury, death, property damage or loss suffered by any person or entity, with a minimum of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) annual aggregate.

The Licensors and their respective officers, directors, managers and agents shall be named as additional insured parties on such insurance policies.

8. DAMAGE AND DESTRUCTION

If, during the Term and the Extended Term, any portion of Licensed Premises or the Kiosk is damaged or destroyed by any cause, then this License, at the option of the Licensee, and upon reasonable notice in writing to the Licensors, shall cease and terminate. In such event, none of the Parties shall have any further rights, obligations, or liability to the other Parties, except as otherwise expressly stated in this License.

9. TERMINATION

A. This License may be terminated by any Party to this License upon one hundred eighty (180) days prior written notice to the non-terminating Parties.

B. Notwithstanding the foregoing, the Parties may mutually agree, in writing, to terminate this License upon less than one hundred eighty (180) days prior written notice.

C. The Licensee shall, before the expiration or termination of this License, remove the Kiosk and restore the Licensed Premises to the same condition, reasonable and ordinary wear and tear excepted, existing upon the date when the Kiosk is installed, including removal of concrete pad and reinstallation of pavers, removal of electric and utility wiring, and repair of the Licensed Premises, the Building, and any other area affected by the installation of the Kiosk.

10. NO ASSIGNMENT OR TRANSFER

This License is not assignable or transferable by any of the Parties. Any attempt to assign or transfer this License shall be void. Notwithstanding the foregoing, Ground Lessee shall have the right, without the consent of any other Party, to assign this License to a purchaser of Ground Lessee's leasehold interest in the Property, or to its lender whose debt is secured by

Ground Lessee's leasehold interest in the Property in accordance with the terms of the Ground Lease.

11. CONTRACTORS

The Licensee may contract or subcontract any portion of the activities permitted to be performed by the Licensee within the Licensed Premises. The Licensee shall provide prior written notice to the Ground Lessee and shall secure Ground Lessee's written approval of any such contractor or subcontractor before utilizing any contractor or subcontractor to perform such activities, which written approval shall not be unreasonably withheld, conditioned, or delayed. By executing this License, the Licensors understand and agree that the Licensee has contracted with The Convention Store, Inc. to perform permitted Commuter Store activities within the Kiosk and the Licensed Premises.

12. NO WAIVER OF SOVEREIGN IMMUNITY

Nothing in this License, nor any action taken by any of the Parties pursuant to this License, nor any document or documents that arise out of this License, shall constitute or be construed as a waiver of either the sovereign immunity or governmental immunity of WMATA or the County, including their respective elected and appointed officials, officers, and employees.

13. NO RIGHTS IN THIRD PARTIES

The Parties agree that no provision of this License shall create in the public, or in any person or entity other than the Parties, any right as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for personal injury, property damage, or breach of contract pursuant to the terms of this License or otherwise.

14. APPROPRIATION OF FUNDS

Notwithstanding any other term or condition of this License to the contrary, all of the Licensee's obligations under this License are subject to appropriation of funds by the County Board of Arlington County, Virginia, for the specific purpose of satisfying the payment and performance of such obligations. If funds are not appropriated for the specific purposes of satisfying the obligations of the Licensee under this License at the beginning of any one of the Licensee's fiscal years during the Term, then this License shall become null and void and shall terminate on the last day of the Licensee's fiscal year for which appropriations were received for such purpose, without any termination fee or other liability whatsoever to the Licensee. The Parties agree that, notwithstanding any provision in this License to the contrary, this section shall supersede any and all obligations imposed by any other provisions of this License. No subsequent amendment to this License shall abrogate, diminish, or compromise the full legal effect or implication of this section.

15. NOTICES

All notices required or desired to be given by either party to the other pursuant to this License shall be given by certified mail, return receipt requested. Notices to the respective Parties, unless any of the Parties designates in writing to the other Parties a new address for any such notice, shall be addressed as follows:

LICENSOR/  
WMATA: Washington Metropolitan Area Transit Authority  
600 Fifth Street, NW  
Washington, DC 20001  
ATTN: Director, Office of Station Area Planning and  
Asset Management

LICENSOR/  
GROUND LESSEE: Ballston Metro Investors, LLC  
c/o Gates, Hudson & Associates, Inc.

3020 Hamacker Court, Suite 301  
Fairfax, Virginia 22031

LICENSEE/  
COUNTY:

Department of Environmental Services  
Transportation Division  
2100 Clarendon Boulevard, Suite 900  
Arlington, Virginia 22201  
Attn: ACCS Bureau Chief

With a  
copy to:

Department of Environmental Services  
Real Estate Bureau  
2100 Clarendon Boulevard, Suite 800  
Arlington, Virginia 22201  
Attn: Real Estate Bureau Chief

16. ROLE OF LICENSEE/LICENSEE'S DECISIONS; NO WAIVER.

The Licensee's execution of this License shall not constitute the granting of governmental approval to the Licensors for any governmental approval or consent required to be obtained by the Licensors. Nothing in this License shall be construed to waive any of the Licensee's powers, rights, or obligations as a governing authority or local governmental body, including, but not limited to, its police powers, right to grant or deny permits, right to collect taxes or fees, or any other power, right or obligation whatsoever.

17. NO INDEMNIFICATION OF HOLD HARMLESS

Notwithstanding any other term or provision of this License to the contrary, the Licensee shall have no obligation to explicitly or implicitly indemnify or hold harmless the Licensors or any third party or parties from any liability whatsoever.

18. NO PARTNERSHIP, JOINT VENTURE, LEASE, OR EASEMENT

The Parties hereby agree that nothing contained in this License shall be deemed or construed as creating a partnership; joint venture; a landlord and tenant relationship; or a leasehold interest in any portion of the Licensed Premises.

19. HAZARDOUS MATERIALS

A. As used in this License, the term "Hazardous Material" means any flammable items, explosives, radioactive materials, hazardous or toxic substances, material or waste or related materials, including any substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "infectious wastes", "hazardous materials" or "toxic substances" now or subsequently regulated under any applicable laws including oil, petroleum-based products, paints, solvents, lead, cyanide, DDT, printing inks, acids, pesticides, ammonia compounds and other chemical products, asbestos, PCBs and similar compounds, and including any different products and materials which are subsequently found to have adverse effects on the environment or the health and safety of persons. For purposes of this License, Hazardous Materials shall include, but are not limited to, asbestos or asbestos containing materials.

B. The Licensors represent and warrant to the Licensee that, to the best of their knowledge and belief, there are no Hazardous Materials on, in, or under the Licensed Premises.

C. Neither the Licensee nor the Licensors shall cause or permit any Hazardous Material to be generated, produced, brought upon, used, stored, treated, discharged, released, spilled or disposed of on, in, under or about the Licensed Premises. Notwithstanding the foregoing, the Licensors recognize and acknowledge that the Licensee or its contractors may use and store within the Kiosk reasonable quantities of customary office and cleaning supplies, paint and adhesives, and other materials commonly used in connection with the uses of the Licensed Premises permitted by this License; provided such items are stored, used and disposed of in accordance with applicable laws.

20. PREEXISTING PROPERTY RIGHTS OF THE PARTIES

Nothing herein shall extinguish or abrogate any property rights of the Parties existing on the Effective Date of this License.

21. SEVERABILITY

If any of the terms and conditions in this License are, at any time during the Term of the Extended Term, held by any Court of competent jurisdiction to be invalid or unenforceable, then such terms and conditions shall be severed from the remainder of this License, and such severance shall not affect the enforceability of the remaining terms and conditions in accordance with the intent of this License.

22. RECITALS.

The Recitals are incorporated into this License.

23. APPLICABLE LAW; LEGAL ACTIONS

This License shall be construed and enforced in accordance with the laws of the Commonwealth of Virginia. All legal actions instituted by the Licensors or the Licensee concerning this License shall be filed solely in the Arlington County General District or Circuit Court and in no other court. Notwithstanding the foregoing, the Parties acknowledge that the Owner (WMATA) is bound by the WMATA Compact, and to the extent of any conflict between the laws of the Commonwealth of Virginia and the WMATA Compact, the WMATA Compact shall govern the Owner.

24. ENTIRE AGREEMENT

This License contains and embodies the entire agreement of the parties hereto, and no representations, inducements, or agreements, oral or otherwise, between the parties not contained in this License shall be of any force or effect. This License may not be modified,

changed or terminated in whole or in part in any manner other than by an agreement in writing duly signed by all Parties hereto.

25. APPROVAL OF LICENSE; EFFECTIVE DATE

This License shall not become effective unless and until the last to occur of: 1) the County Board approves this License; and 2) this License is executed on behalf of the County Board; and 3) the County Board approves the necessary minor amendment to the Site Plan to allow the placement and operation of the Kiosk (the "Effective Date") . If the County Board does not approve this License and the minor amendment to the Site Plan by the 30th day of June, 2011, then this License shall be void, and no liability whatsoever shall accrue to any of the Parties, and the Parties shall thereafter have no further obligation whatsoever to each other.

WITNESS the following signatures:

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

**OWNER/LICENSOR:** WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY, a regional body corporate and politic organized pursuant to Public Law 89-774, 80 Stat. 1324; Maryland Acts of General Assembly, Chapter 869-1965; Virginia Acts of Assembly, Chapter 2-1966; and Resolution of D.C. Board of Commissioners adopted November 15, 1966

BY: \_\_\_\_\_

NAME: Steven E. Goldin

TITLE: Director, Station Area Planning & Asset Management, as authorized by \_\_\_\_\_.

DATE: \_\_\_\_\_

DISTRICT OF COLUMBIA:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, \_\_\_\_\_ of the WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY, acting on behalf thereof.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

**GROUND LESSEE  
/LICENSOR:**

BALLSTON METRO INVESTORS, LLC, a Virginia limited liability company

BY: \_\_\_\_\_

NAME: Ralph S. Dweck

TITLE: Manager

DATE: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, \_\_\_\_\_ of the BALLSTON METRO INVESTORS, LLC, acting on behalf thereof.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

**LICENSEE:** THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a  
body politic

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF \_\_\_\_\_

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

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

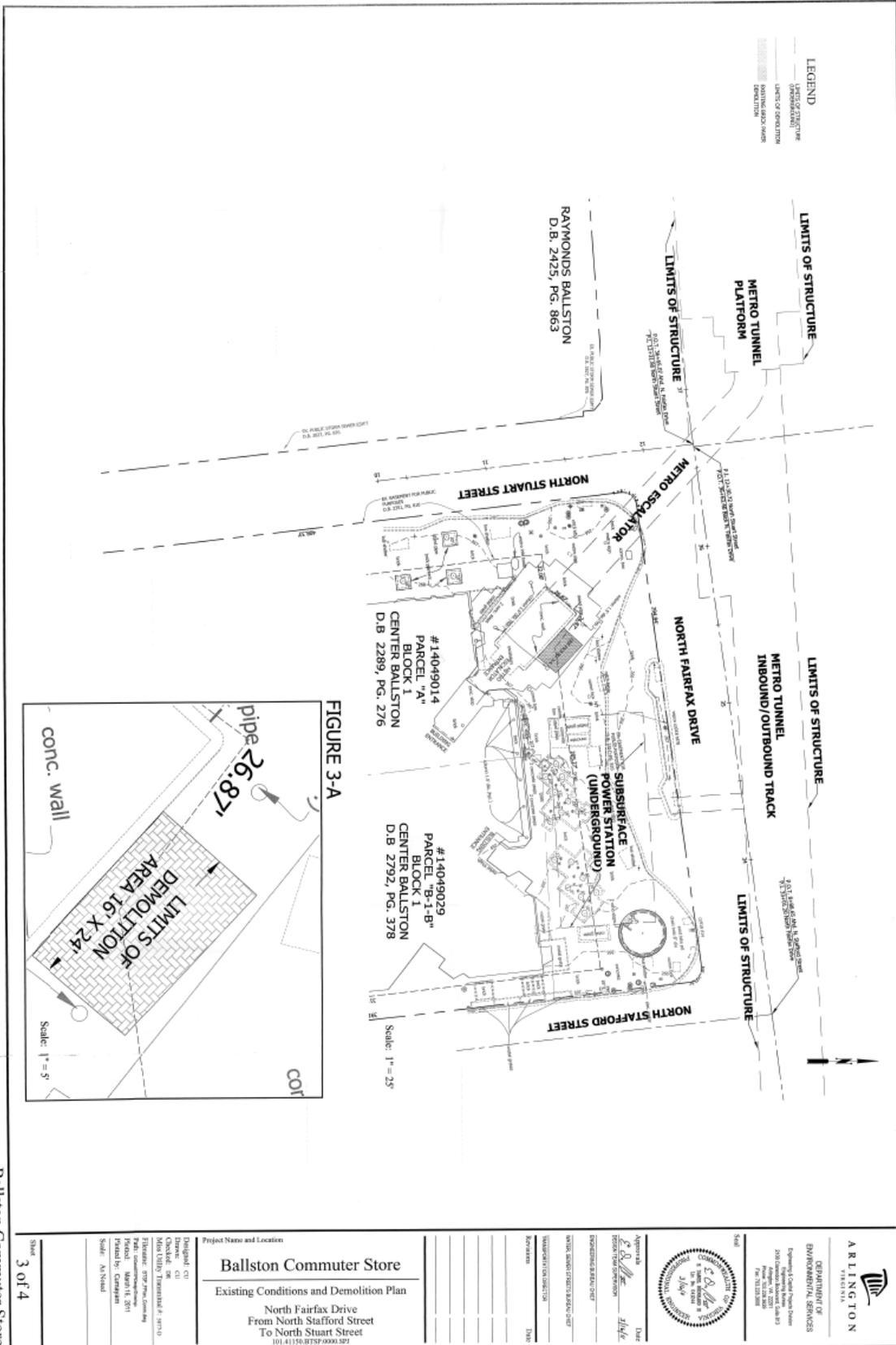
Approved as to form:

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





# EXHIBIT A-3: CONSTRUCTION PLANS



Ballston Commuter Store

Sheet 3 of 4

**Project Name and Location**  
**Ballston Commuter Store**  
 Existing Conditions and Demolition Plan  
 North Fairfax Drive  
 From North Stafford Street  
 To North Stuart Street  
 101-411516-RTSP-0000-527

**Designated by:** [Signature]  
**Checked by:** [Signature]  
**Drawn by:** [Signature]  
**Printed by:** [Signature]  
**Scale:** As Noted

**APPROVED:** [Signature]  
**DATE:** 3/16/09  
**PROJECT NO.:** 101-411516-RTSP-0000-527  
**SCALE:** 1" = 25'

**ARLINGTON**  
 VIRGINIA

**DEPARTMENT OF ENVIRONMENTAL SERVICES**  
 Engineering & Survey Services  
 2000 Commonwealth Center Blvd  
 Arlington, VA 22202  
 Phone: 703-245-5000  
 Fax: 703-245-5000

**Professional Seal:** [Seal]











**EXHIBIT D**  
**GATES, HUDSON & ASSOCIATES, INC.**  
**PROPERTY MANAGEMENT**

**BALLSTON METRO CENTER**  
**STANDARD RULES AND REGULATIONS**  
January 30, 2008

1. The, sidewalks, entries, passages, court, corridor, stairways, elevators shall not be obstructed or used for purposes other than ingress and egress by Tenant, Tenant's employees, agents, or invitees or subleases. They are not for use by the general public and Landlord shall in all cases retain the right to control and prevent access thereto by all persons whose presence, in the judgment of the Landlord, shall be prejudicial to the safety, character, reputation and interests of the Building and its Tenants, provided that nothing herein contained shall be construed to prevent such access to persons with whom any Tenant normally deals in the ordinary course of such Tenant's business unless such persons are engaged in illegal activities. No Tenant, and no employees or invitees of any Tenant, shall go upon the roof of the building, except as authorized by the Landlord.
2. No sign, placard, picture, name, advertisement, or notice, visible from the exterior of leased premises shall be inscribed, painted, affixed, installed or otherwise displayed by any Tenant either on its premises or any part of the building without prior consent of Landlord, and Landlord shall have the right to remove any such sign, placard, picture, name, advertisement, or notice without notice to and at the expense of the Tenant.
3. If Landlord shall have given such consent to any Tenant at any time, whether before or after the execution of the Lease, such consent shall in no way operate as a waiver or release of any of the provisions hereof or of such Lease and shall be deemed to relate only to the particular sign, placard, picture, name, advertisement or notice so consented to by the Landlord and shall not be construed as dispensing with the necessity of obtaining the specific written consent of the Landlord with respect to any other such sign, placard, picture, name, advertisement, or notice.
4. All approved signs or lettering on doors and walls shall be printed, painted, affixed, and inscribed at the expense of the Tenant by a person or company approved by Landlord pursuant of Section 1.1.
5. The directory of the Building will be provided exclusively for the display of the name and location of Tenants only and Landlord reserves the right to exclude any other names there from.

6. No curtains, draperies, blinds, shutters, shades, screens, or other coverings, awnings, hangings, or decorations shall be attached to, hung to, or placed in or used in connection with any window or door on any premises without the prior written consent of Landlord. In any event with the prior written consent of Landlord, all such items shall be installed inboard of Landlord's standard window covering and shall in no way be visible from the exterior of the Building. No articles shall be placed or kept on the window sills as so to be visible from the exterior of the Building. No articles shall be placed against glass partitions or doors which might appear unsightly from outside Tenant's premises.
7. Landlord reserves the right to exclude from the Building between the hours of 6 pm and 8 am at all hours on Saturdays, Sundays, and holidays all persons who are not Tenants or their accompanied guests in the Building. Each tenant shall be responsible for all persons whom it allows to enter the Building and shall be liable for Landlord for all acts of such person.
8. Landlord shall in no case be liable for damages for error with regard to the admission to or exclusion from the Building of any person.
9. During the continuance of any invasion, mob, riot, public excitement, or other circumstances rendering such action advisable in Landlord's opinion, Landlord reserves the right to prevent access to the Building by closing the doors, or otherwise for the safety of Tenants and the protection of the Building and property in the Building.
10. Tenant shall not employ any person other than the janitor of Landlord for the purpose of cleaning the Premises without the written consent of Landlord. Landlord shall not be responsible to Tenant for loss of property from the premises or for any damage done to the furniture by the janitor, any of his employees, or by any other person. Any person employed by Tenant for the purpose of cleaning the premises, with the written consent of Landlord, must be subject to and under the control and direction of the building janitor.
11. No tenant shall install, maintain, or operate for use upon its premises any vending machines without prior written consent of Landlord.
12. The water closets and other water fixtures shall not be used for any purpose other than those for which they were constructed. Any damage resulting to them from misuse or the defacing or injury of any part of the Building shall be paid for by Landlord, excepting only where defacing or injury is done by Tenant or an agent of Tenant. Tenant shall not waste water by interfering with the operation of any plumbing fixture.
13. As more specifically provided in the Tenant's Lease of the premises, Tenant shall not waste electricity, water, or air-conditioning and agrees to cooperate fully with

Landlord to assure the most effective operation of the Building's heating and air-conditioning, and shall refrain from attempting to adjust any controls.

14. Landlord shall furnish Tenant entry keys for the individual space. Additional keys shall be furnished at a charge by Landlord on an order signed by Tenant or Tenant's authorized representative. Tenant shall not make duplicate copies of such keys. Tenant shall not install additional locks or bolts of any kind upon any of the doors or windows of, or within, the Building, nor shall Tenant make any changes in existing locks or mechanisms thereof. Tenant shall, upon the termination of its tenancy, provide Landlord or its representative with the combinations to all combination locks on safes, safe cabinets and vaults and deliver to Landlord all keys to the Building, the Premises and all interior doors, cabinets, and other key-controlled mechanisms therein, whether or not such keys were furnished to Tenant by Landlord.
15. Tenant shall pay to Landlord the reasonable cost of replacing the same or of changing the lock or locks opened by such lost key if Landlord shall reasonably deem it necessary to make such a change. Tenant shall comply with all requirements necessary for the security of the Property, including the use of service passes issued by Landlord for after hours removal of office equipment, packages, and signing in and/or out in the security register in the Building lobby after hours. Landlord reserves the right to deny entrance to the Building or remove any person from the Property in any case where the conduct of such person involves a hazard or nuisance to any tenant of the Property or to the public or in the event of fire or other emergency, riot, civil commotion, or similar disturbance involving risk to the Property, tenants, or the general public. Landlord also reserves the right to make such rules and regulations as it may seem fit concerning the use of electric current, water, and other supplies of the Building and to designate such hours as the Building may be closed.
16. The toilet rooms, toilets, urinals, wash bowls, and other apparatus shall not be used for any purpose other than that for which they were constructed and no foreign substance of any kind whatsoever, including but not limited to, coffee grounds and food shall be thrown therein, and the expense of any breakage, stoppage, or damage resulting from the violation of this rule shall be borne to the Tenant, who, or whose employees or invitees shall have caused it.
17. No Tenant shall use or keep in its premises or the Building any kerosene, gasoline, or inflammable or combustible liquid or material other than limited quantities necessary for the operation or maintenance of office equipment. No tenant shall use any method of heating or air-conditioning other than that supplied by landlord.
18. No tenant shall use, keep, or permit to be used or kept in its premises any foul or noxious gas or substance or permit or suffer such premises to be occupied or used in a manner offensive or objectionable to Landlord or other occupants of the Building by reason of noise, odors, and/or vibrations or interfere in any way with other Tenants

or those having business therein, nor shall any animals or birds be brought or kept in or about any premises of the Building.

19. Tenant shall not cook or prepare food, or place or use any inflammable, combustible, explosive, or hazardous fluid, chemical, device, substance, or material in or about the Building without the prior written consent of Landlord. Tenant shall comply with the statutes, ordinances, rules, orders, regulations, and other requirements imposed by governmental or quasi-governmental authorities in connection with fire and public safety and fire prevention and shall not commit any act or permit any object to be brought or kept in the Building which shall result in an increase in the cost of any insurance purchased by Landlord in connection with this Lease.
20. Canvassing, soliciting, peddling in the Building is prohibited, and Tenant shall cooperate to prevent the same. Tenant shall notify the Building Manager of any unauthorized person who is soliciting from or causing annoyance to tenants, their employees, guests, or invitees.
21. If Tenant requires telegraphic, telephonic, burglar alarm or similar services, it shall first obtain, and comply with, Landlord's instructions for installation.
22. All office equipment and any other divider or any electrical or mechanical nature shall be placed by tenant in the premises in settings reasonably approved by Landlord so as to absorb or prevent any vibration, noise, or annoyance. Tenant shall not cause improper noises, vibrations, or odors within the Building.
23. No Tenant shall install any radio or television antenna, loudspeakers or any other device on the exterior walls or the roof of the Building. Tenant shall not interfere with radio or television broadcasting or reception from or in the Building or elsewhere. Tenant shall not disturb the occupants of the Building by the use of any musical or sound producing instruments, making unseemly noises, or by interference in any way.
24. Tenant shall be responsible for any damage to carpeting and flooring as a result of rust or corrosion of the file cabinets, roller chains and metal objects.
25. Movement in or out of the Property of furniture or office equipment, or dispatch or receipt by Tenant of any bulky materials, merchandise, or materials which requires use of elevators, is restricted to the freight elevator. Tenant shall use its best efforts to protect Common Areas and building elevators during movement in and out of the Property or furniture or office equipment, or dispatch and receipt by Tenant of any bulky materials or merchandise. Movement through the Building entrances or lobby shall be restricted to such hours as Landlord shall designate. All such movement shall be scheduled with the Building management office and done in a manner agreed between Tenant and Landlord by prearrangement before performance. Such prearrangement initiated by Tenant shall include determination by Landlord, and subject to its decisions and control as to the time, method, and

routing of movement, and as to limitations for safety or other concerns which may prohibit any Article, equipment, or any other item being brought into the Building. Tenant shall assume all risk regarding damage to articles moved and injury to persons or public engaged or not engaged in such movement, including equipment, property, and personnel of Landlord if damaged or injured as a result of any act in connection with carrying out this service for tenant from time of entering the Property to completion of work; and Landlord shall not be liable for acts of any person engaged in, or any damage or loss to any of said property or person resulting from any act in connection with such service performed for Tenant.

26. No Tenant shall place a load upon any floor of the premises which exceeds the load per square foot which such floor was designed to carry and which is allowed by law. Tenant shall not mark, paint, drill into, cut, or in any way deface any part of the Building with anything except normal picture hanging apparatus and interior signage without the express prior written consent of Landlord. This Paragraph 4 shall apply to all work performed in the Building, including, without limitation, installation of telephones, telecommunications equipment, electrical devices, and attachments and installations of any nature affecting floors, walls, woodwork, trim, windows, ceilings, equipment, or any other portion of the Building. Subject to the provisions of the Lease, all installations, alterations, and additions shall be constructed by Tenant in a good and workmanlike manner and only good grades of material shall be used in connection therewith. The means by which telephone, telecommunications, computer, and similar wires are to be introduced to the Property and Premises and the location of telephones, call boxes, and other office equipment affixed to the Property shall be subject to the express prior written approval of Landlord which shall not be unreasonably withheld, conditioned or delayed.
27. Nothing shall be thrown out of the doors or windows of the Building or down stairways or other passages by tenant.
28. There shall not be used in any space or in the public halls of the Building, either by Tenant, by jobbers, or others, in the delivery or receipt of merchandise, and hand trucks, except those equipped with rubber tires and side guards. Hand trucks are not permitted in the passenger elevators.
29. Tenant shall not deposit any trash, refuse, cigarettes, or other substances of any kind within or out of the Building except in refuse containers provided therefore.
30. Tenant shall not bring or keep within the Building any bicycle or motorcycle. Parking in unmarked areas, blocking of walkways, loading areas, entrances, or alleyways shall not be permitted. Should such a situation exist, Landlord, at its option, shall have the right to tow such vehicle away at the owner's expense.
31. Landlord reserves the right to exclude or expel from the property any person who, in the reasonable judgment of Landlord, is intoxicated or under the influence of liquor

or drugs, or who shall in any manner act in violation of the rules and regulations of the Property.

32. Tenant shall not use the name of the Building or the name of the Landlord in its business name, trademarks, signs, advertisements, descriptive material, letterhead, insignia, or any other similar item without Landlord's express prior written consent.
33. Tenant shall comply with all energy conservation, safety, fire protection, and evacuation procedures and regulations established by the Landlord or any government agency.
34. Landlord shall not be responsible for, and Tenant hereby indemnifies and holds Landlord harmless from, any liability in connection with the loss, theft, misappropriation, or other disappearance of furniture, furnishings, fixtures, machinery, equipment, money, jewelry, or other items of personal property from the Premises or other parts of the Building regardless of whether the Premises or Building are locked at the time of such loss, unless the loss arises from Landlord's willful or grossly negligent acts or omissions.
35. Employees of Landlord shall not receive or carry messages for or to Tenant or any other person, nor contract with nor render free or paid services to Tenant or Tenant's servants, employees, contractors, jobbers, agents, invitees, licensees, guests, or visitors.
36. All glass, locks, and trimmings in or about the doors and windows, and all electric globes and shades belonging to the Property shall be kept whole; and whenever broken by Tenant, shall be immediately replaced or repaired and put in order by Tenant, at its cost, under the direction and to the satisfaction of Landlord.
37. Tenant shall not use the Building for lodging, sleeping, or for any immoral or illegal purposes or for any purpose that will damage the Building, or the reputation thereof, or for any purposes other than those specified in the Lease.
38. Tenant shall not obstruct or interfere with the rights of other tenants of the Building or of persons having business in the Building or in any way injure or annoy such tenants or persons.
39. Tenant shall not commit any act or permit anything in or about the Building which shall or might subject Landlord to any liability or responsibility for injury to any person or property by reason of any business or operation being carried on, in or about the Building or for any other reason subject to the terms of this Lease.
40. Tenant will refer all contractors, representatives, and installation technicians rendering any service to Landlord or Landlord's supervision, approval, and control before performance of any contractual service. This provision shall apply

to all work performed in the Building, including installations of telephones, telegraph equipment, electrical devices, and attachment and installation of any nature affecting floors, walls, woodwork, trim, windows, ceilings, equipment or any other physical portion of the Building.

41. Tenant will give prompt notices to Landlord of any accidents to or defects in plumbing, electrical fixtures, or heating apparatus so that such accidents or defects may be attended to properly.
42. Tenant shall be responsible for the observance of all of the foregoing Rules and Regulations by Tenant's employees, agents, clients, customers, invitees, and guests.
43. Landlord reserves the right to rescind any of these rules and regulations and to make such other and further rules and regulations as in its judgment shall, from time to time, be needed for the safety, protection, care, and cleanliness of the Property, the operation thereof, the preservation of good order therein, and the protection of comfort of the tenants and their agents, employees, and invitees, which rules and regulations, when made and written notice thereof is given to Tenant, shall be binding upon Tenant in like manner as if here originally herein prescribed. These Rules and Regulations are in addition to, and shall not be construed to in any way modify, alter or amend, in whole or in part, the terms, covenants, agreements, and conditions of any Lease of premises in the Building.

### **SITE RULES FOR BALLSTON METRO CENTER**

It is important that all contractors, subcontractors, workmen and suppliers read and understand and acknowledge this information prior to the commencement of any work at Ballston Metro Center.

#### **INSURANCE AND INDEMNITY**

1. The Contractor (and all subcontractors) shall secure and keep in full force and effect throughout the term of the work, at the Contractor's sole cost and expense, the following coverage:
  - a. Commercial General Liability Insurance (including broad-form property damage endorsements) written on an occurrence basis, to afford protection of \$1,000,000 combined single limit for property damage, personal injury, bodily injury and/or death;
  - b. Comprehensive Automobile Liability, covering owned, non-owned, and hired vehicles providing bodily injury and property damage coverage, all on a per occurrence basis, at a combined single-limit of \$1,000,000;
  - c. Worker's Compensation Insurance in an amount no less than statutory requirements;

d. Property coverage covering damage to or loss of use of Contractor's equipment.

All required insurance shall be maintained with insurance companies holding a Best Key Rating Guide rating of "A" or better, and shall incorporate provisions requiring the giving of written notice to the Certificate Holder at least thirty (30) days prior to cancellation, non-renewal or material modification of any policies, as evidenced by return receipt of United States certified mail. All uninsured or insured losses that fall within a deductible will be incurred by Contractor.

The Contractor shall mention as additional insureds under its liability policy, the following parties:

Owner:	Ballston Metro Investors, LLC.
Management Agent:	Gates, Hudson & Associates, Inc. Their members, agents and employees.

The Contractor shall deliver to the Certificate Holder written evidence of the above insurance coverage's (a "Certificate of Insurance") prior to commencing work on site. The name and address of the insured shall appear on the Certificate of Insurance. The production of such Certificate of Insurance shall be an express condition precedent to the Contractor's right to receive any pre-agreed payment for work performed at Ballston Metro Center. If the Contractor fails to furnish and/or maintain the insurance required by this Exhibit, the Owner may (but is not required to) purchase such insurance on behalf of the Contractor, and the Contractor shall pay the cost thereof to the Owner upon demand and shall furnish to the Owner any information needed to obtain such insurance. Moreover, at its discretion, Owner may pay for such insurance with funds otherwise due the Contractor.

Certificates of Insurance shall be mailed to:

Gates, Hudson & Associates, Inc.  
901 North Glebe Road, Ste. 125  
Arlington, VA 22203

- Contractor agrees to indemnify, defend, and hold the Owner, or other persons or entities designated by the Owner and any subsidiary, parent or affiliate corporations of the Owner, or other persons or entities designated by the Owner, and all of their directors, officers, agents, employees and designees (collectively, "Indemnities") harmless from all losses, claims, liabilities, injuries, costs and expenses, that the Indemnities may incur by reason of any injury or damage sustained to any person (including, but not limited to, any one of the Indemnities) or property (including the Ballston Metro Center and/or the specific work performed at Ballston Metro Center arising out of or occurring in connection with the Contractor's acts, errors or omissions or the acts, errors or omissions of any firm or any other person directly or indirectly employed by Contractor while engaged in the performance of work at Ballston Metro Center or any activity associated therewith or relative thereto. The Contractor's duty to defend and indemnify the Indemnities shall exist even if the alleged injuries or damages sustained by the claimant or claimants are the result in part of the Indemnities' active or passive

negligence, but not to the extent that the injuries or damages are the result of the Indemnities' sole negligence or willful misconduct. This indemnity shall survive the termination of any Agreement pertaining to the Contractor's work at this property.

#### ACCESS TO JOBSITE

1. Construction crews shall provide their own parking. Any unauthorized vehicle in the loading dock area shall be ticketed and towed at its owner's expense.
2. The loading dock hours are restricted Monday through Friday. The delivery of merchandise, supplies, fixtures and other materials or goods to and from the work area and all loading, unloading and handling shall be done in accordance with Management.
3. The freight elevator is available for contractor and general building use from 7:00 am to 5:00 pm Monday through Friday. After hours scheduling of elevators must be coordinated with the Management office.

Stocking and/or vertical movement through the building of materials facilitated by use of the padded elevators only. At no time shall Contractor, its workmen or suppliers, transport equipment or supplies via unpadded elevators. Stocking shall take place only at scheduled times and only by use of the loading dock, unless special arrangements have been made in advance. Contractors will not be provided exclusive use of the elevator at any time, though 24 hours' notice will enhance scheduling opportunities.

All materials must be clearly identified prior to being hoisted. The maximum allowable load in the Loading Dock freight elevator is 2000 pounds.

4. All "after-hours" work must be scheduled through the Building Management Office. If a Contractor deems it necessary to perform work before 7:00 a.m. or after 6:00 p.m. Monday through Friday, or any time during the weekend, it shall be that Contractor's responsibility to submit a request accordingly to Owner before 2:00 p.m. on the day before. After-hours work may not take place without Owner's prior approval.

Extra costs, if any, incurred by Owner to facilitate Contractor's after-hours work, shall be reimbursed by the Contractor.

#### COOPERATION

1. Owner may require that hoarding be constructed around work areas and that all work be conducted and all tools and materials be kept behind such hoarding and that all cutting, drilling or other noisy work be conducted outside occupied tenants' normal business hours.
2. The Contractor is responsible at all times for keeping work areas and adjacent areas free from accumulations of waste material and/or rubbish caused by their subcontractors, workmen or suppliers. The Contractor is responsible for leaving the work area in a broom clean condition at the end of each work day. The Contractor is also responsible for the final clean-up which shall include but not be limited to light

fixtures, windows and trim, entries and public space affected by the work. Any repair or cleaning cost incurred by Owner relative to the Contractor's work, including but not limited to delinquency in attending to repairs or cleaning, shall be paid by the Contractor.

3. **Ballston Metro Center is a non-smoking building.** Smoking is prohibited in construction areas, common areas and non-public areas.
4. Contractors, subcontractors, workmen and suppliers shall be required to use restrooms designated by Owner for use by construction personnel. Damages shall be repaired at the damaging contractor's expense as reasonably determined by Owner. **Use of building restrooms other than those designated are restricted and are off limits to construction**
5. Owner also retains the right to deny building access to any individual(s), permanently or temporarily, if in Owner's sole discretion such individual(s) commit(s) any action which could be considered detrimental to the building, its personnel and/or its tenants.

#### TECHNICAL PROCEDURES

1. In that this building has sensitive Fire and Life Safety systems, various precautions need to be taken by Contractor in order to avoid false alarms. These precautions will likely include covering smoke detectors and/or periodically disabling fire alarm zones. Any work which may impact the fire and life safety systems must be coordinated through the Building Management Office. Costs incurred by Owner for false alarms caused by Contractor will be passed on to Contractor. Methods employed to avoid false alarms must not compromise life safety in the building.
2. Emergency lighting, life safety and energy management systems shall not be disconnected under any circumstances without prior written approval from Owner. Upon receiving approval, the work shall be scheduled through the Building Management Office 24 hours in advance. Work shall be performed expeditiously and emergency facilities shall be restored immediately upon completion. Additionally, building personnel, who monitor all life safety systems, must be notified at (703) 276-0683 prior to any such work being started.
3. All abandoned equipment, cabling, ductwork, piping, etc., shall be removed at the time it becomes abandoned or at the time it is discovered abandoned. Verify with Owner prior to removal.
4. **No core drilling.** concrete removal or structural steel alteration shall be performed without prior written approval of Owner and Owner's structural engineer. Coordination for timing of such work requires that the Contractor notify Owner at least 48 hours in advance. **X-rays are required prior to any and all core drilling.** The Contractor must take prudent precautions to ensure that no one (including occupants, visitors, building personnel, inspectors and workmen) will be exposed to potentially harmful rays.

5. Temporary power is available at the Electrical Room on each floor. Additional power requirements beyond those provided shall be the responsibility of the Contractor.
6. All temporary lights shall be provided and maintained by the Contractor. Contractor is responsible for turning off lights and breakers each night.
7. Owner shall be notified 24 hours in advance before Contractor cuts into any duct, sprinkler line, water meter, or before moving any air handling equipment (AHU), thermostat, etc. Additionally, a 24-hour notice shall be given prior to any varnishing or use of toxic materials so that ventilation requirements may be reviewed. Owner reserves the right to withhold approval for Contractor to use any materials which Owner, in its sole discretion, deems could be harmful to the building or its occupants.
8. Final fire alarm tie-in performed by Arlington County shall be at Contractor's expense. No exceptions will be considered.

#### CODE COMPLIANCE

The Contractor, at its sole expense, shall procure all legally required permits relative to the construction work, and shall, during construction, comply with all applicable legal requirements. The construction work shall, once completed, comply with all applicable laws, ordinances, regulations, codes or orders of any state, municipal or other public authority affecting same, and with all requirements of the local fire rating insurance organization, the Arlington Fire Department and other similar bodies.

#### SAFETY

1. All state, local and federal safety rules and regulations must be observed at all times. All Contractors shall cooperate in every detail with any and all other safety requirements imposed by Owner.
2. Each Contractor shall be responsible for providing and maintaining its own first aid kit.
3. Contractor shall ensure that proper working attire is worn at all times Contractor's workmen are on site.
4. Information relative to any toxic or flammable materials shall be provided to the Owner before such materials are brought into the building. Contractors are hereby notified of asbestos-containing material (ACM) in the building (most commonly found in patches to the fireproofing material), Contractor must comply with all federal, state and local codes pertaining to hazardous materials, notify Owner if suspicious materials are observed, and do not proceed with work in such areas until the conditions are addressed. Contractor must supply appropriate documentation including but not limited to Material Safety Data Sheets covering materials used on this job. All hazardous and toxic materials must be stored in original containers with D.O.T. approved labels in a location specified by Building Management. Owner reserves the right to restrict and/or deny the presence of toxic or flammable materials in the building.

## DAMAGE PREVENTION

1. Contractors are only permitted access to the specific floors on which they are working. All other areas are considered off limits.
2. Any access required into a finished area shall be coordinated by the Contractor through Owner. The Contractor shall then assume complete responsibility for the area and shall bear all costs for repair of new or existing work.
3. Contractors doing work on an occupied floor are required to protect all finished floors and walls as necessary, but with a minimum 6 mil. visqueen until all major deliveries have been received and all drywall work completed. Repairs for any associated damage shall be the responsibility of the Contractor.

Each Contractor will be responsible for properly protecting and safeguarding its work. The Owner shall not in any way be held liable for damage or loss to Contractor's work. Damage shall, however, be paid for by the damaging contractor as determined solely by Owner.

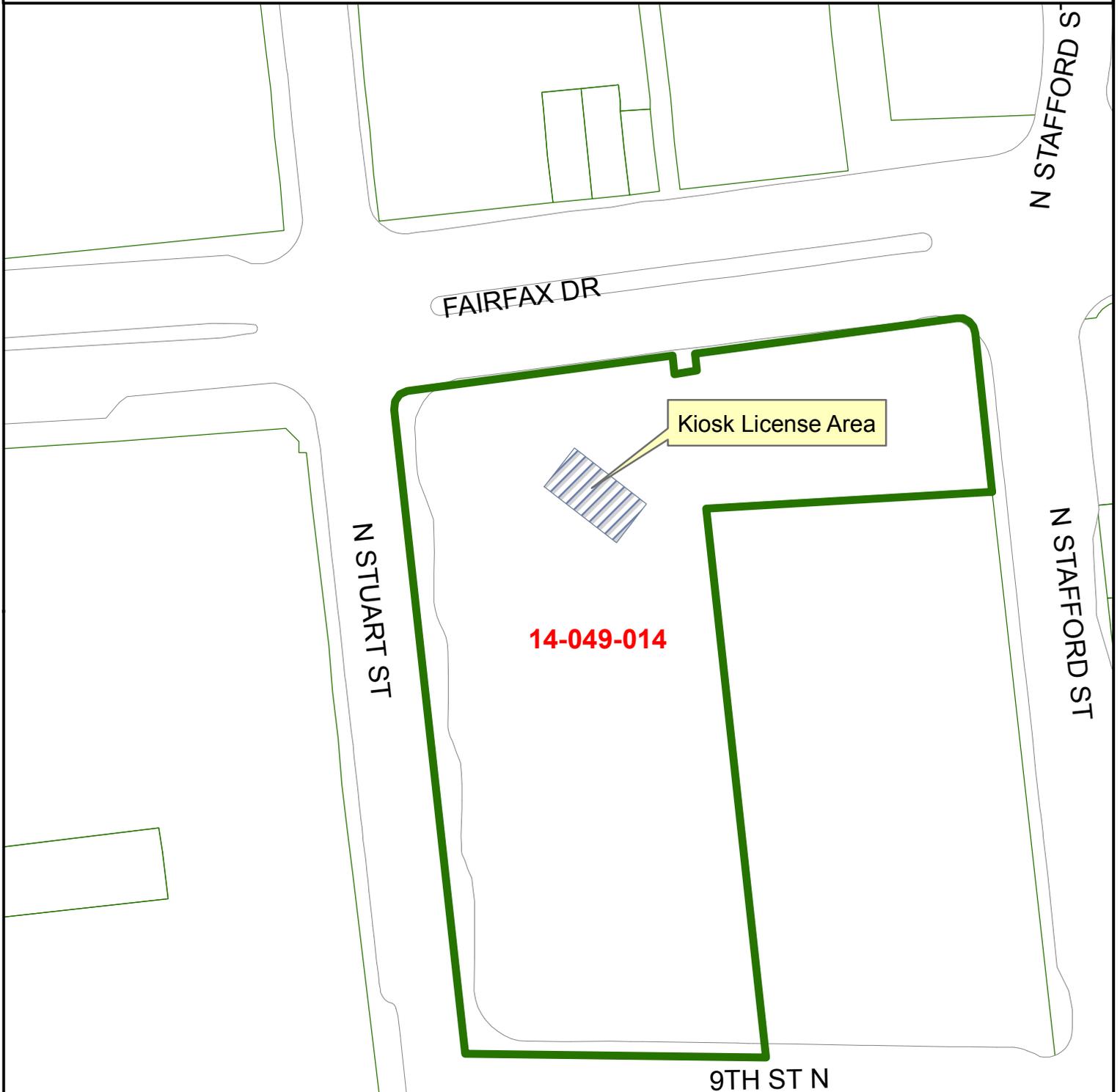
4. Any damage to existing base building work shall be the responsibility of the damaging contractor as determined by Owner.
5. Janitor closets shall become the Contractor's responsibility upon start-up of work. Upon completion of work, Owner shall inspect the janitor closet and, if necessary, may complete clean-up, routing, etc. Associated costs shall be forwarded to the Contractor. Janitor closets, electrical closets and telephone rooms shall not be used for storage at any time.
6. Owner shall have sole determination with respect to the appropriate incidental charges (i.e. damage or non-compliance charges) allocated to Contractor.

## OTHER

1. Owner may inspect construction areas at any time, and stop work if Contractor is in compliance with these rules and/or not performing work in accordance with plans and specifications approved by Owner.
2. Since there is inadequate room on site for dumpsters, Contractor must arrange for removing trash from the building. Hauling must be scheduled after-hours.
3. Owner does not provide for the Contractor's security at the job site. Security shall be the responsibility of the Contractor. Owner must be provided two (2) master keys for each "lock-off" area under the control of a Contractor.
4. Provisions for Contractor's job site telephones shall be Contractor's responsibility.
5. No build-out materials are to be taken from Owner's stock unless contractors have obtained prior written approval to use such materials (in specified quantities) from

- Owner, to the extent that Owner has any stock available. A complete list of requested materials is needed and 24 hours' notice required prior to pick up.
6. Contractors, subcontractors and suppliers shall be responsible for submitting lien releases at the time final payment is made. If such lien releases are received by a tenant, they shall be forwarded to the Owner.
  7. Where a Contractor is engaged directly by a tenant, all references to "Owner" herein shall be considered "Landlord". The tenant is responsible for the performance of the Contractor, their subcontractors, workmen and suppliers, as well as any expenses incurred by the Contractor from Owner. No work shall commence without Owner's advance written approval of plans. Any relative action detrimental to the building and/or its tenants shall become the sole responsibility of that tenant.
  8. Regulations supplemental to those above may be incorporated as part of these site rules if deemed appropriate by owner.

Vicinity Map  
Ballston Commuter Store - Kiosk License Agreement  
4230 Fairfax Drive & 901 North Stuart Street  
RPC # 14-049-014

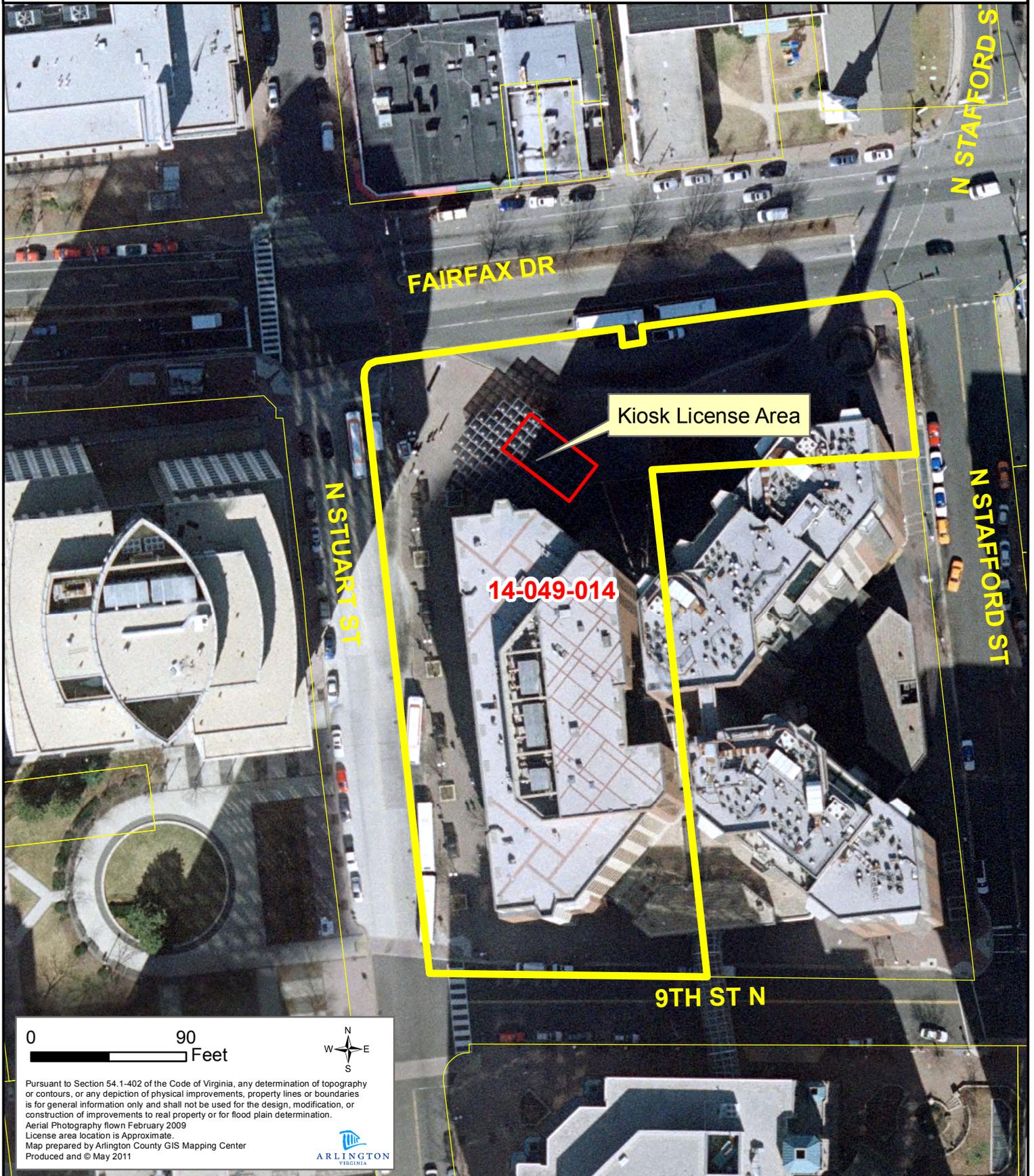


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Pursuant to Section 54.1-402 of the Code of Virginia, any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification,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

Vicinity Map  
Ballston Commuter Store - Kiosk License Agreement  
4230 Fairfax Drive & 901 North Stuart Street  
RPC # 14-049-014



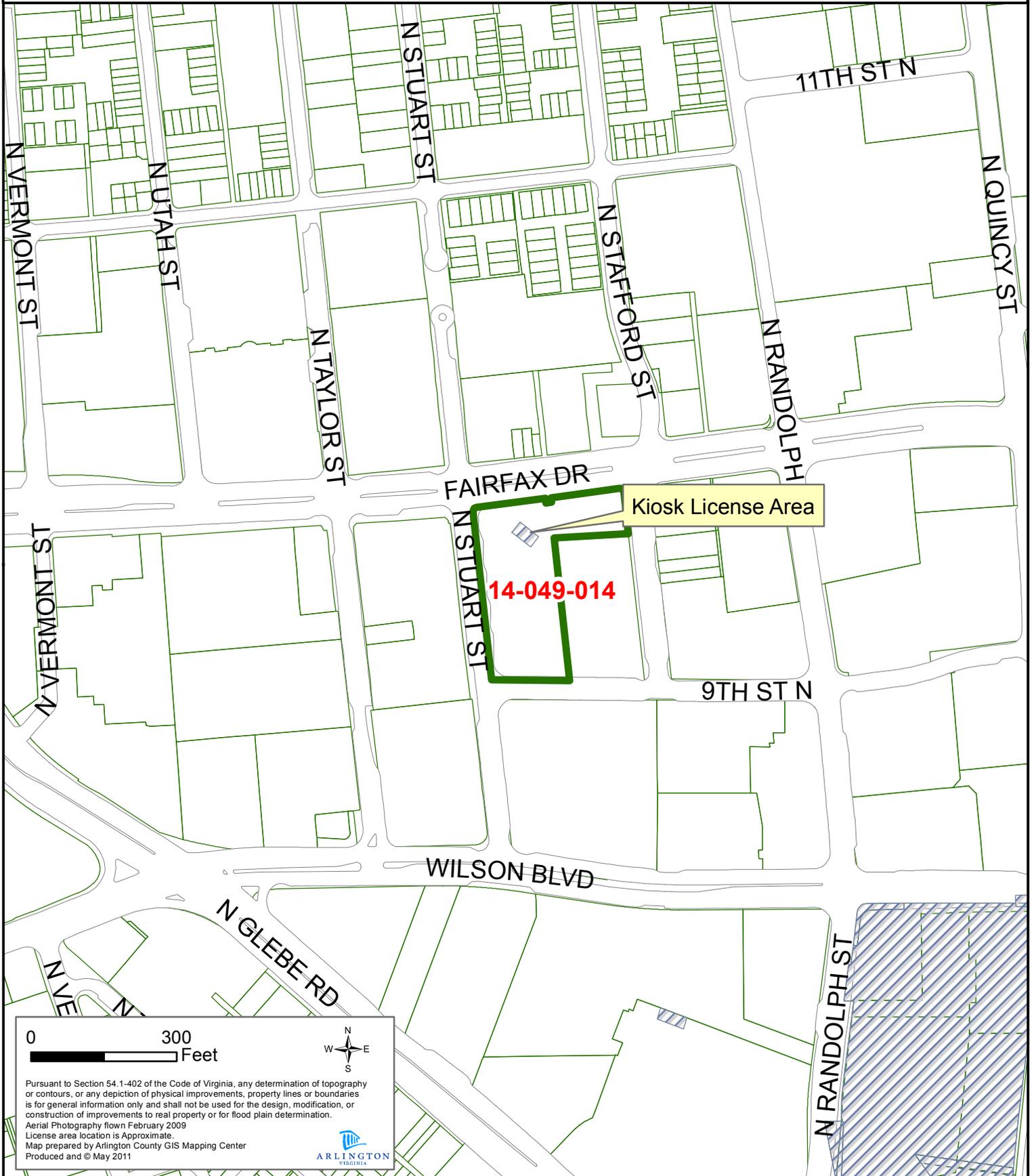
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Pursuant to Section 54.1-402 of the Code of Virginia, any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification,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



Vicinity Map  
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0 300 Feet

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