

PROFFERS

LAUREL HILL ADAPTIVE REUSE AREA RZ/FDP 2012-MV-008

February 3, 2014

Pursuant to Section 15.2-2303 (A) of the Code of Virginia (1950, as amended) and Section 18 -204 of the Zoning Ordinance of Fairfax County (1978, as amended), the property owner/applicant, for itself and its successors and/or assigns (hereinafter collectively referred to as the "Applicant"), hereby proffer that the development of the parcels under consideration and shown on the Fairfax County tax maps as Tax Map 107-1-((01))-0009 (the "Property") shall be in accordance with the following conditions if, and only if, Rezoning application RZ/FDP 2012-MV-008 is granted by the Board of Supervisors of Fairfax County, Virginia. In the event said application request is denied or the Board's approval is overturned by a court of competent jurisdiction, these proffers shall be null and void.

GENERAL

1. Conceptual/Final Development Plan. The Property shall be developed in substantial conformance with the Conceptual Development Plan ("CDP ") and Final Development Plan ("FDP ") entitled "LAUREL HILL ADAPTIVE REUSE AREA" dated February 15, 2012 and revised through February 3, 2014, prepared by Walter L. Phillips Incorporated, consisting of Sheets P-0101 through P-0601.
2. Elements of CDP. Notwithstanding the fact that the CDP and FDP are presented on the same plan, the elements that are components of the CDP are limited to the perimeter points of access, the location of the buildings, maximum number of dwelling units, the maximum square footage of non -residential uses, building heights, and setbacks from the

peripheral lot lines and a modification to such elements shall require a subsequent Conceptual Development Plan Amendment (CDPA) or Proffered Condition Amendment (PCA). The Applicant reserves the right to request a Final Development Plan Amendment (FDPA) for elements other than CDP elements from the Planning Commission for all or a portion of the FDP in accordance with Section 16-402 of the Zoning Ordinance if such an amendment is in accordance with these Proffers as determined by the Zoning Administrator.

3. Minor Modifications. Minor modifications to the CDP/FDP may be permitted when necessitated by sound engineering or that may become necessary as part of final site design or engineering, pursuant to Section 16-403(4) of the Zoning Ordinance. Additionally, minor modifications may be permitted to comply with requirements of the Virginia Department of Historic Resources and the National Park Service. Minor modifications of building footprints may be permitted and the number of residential units (as defined herein) and corresponding adjustments in required parking may be made without requirement to amend this application, so long as (a) the provided open space is not reduced; (b) the building height is not increased; (c) the setbacks to the peripheral lot lines are not diminished; and (d) the development otherwise is in substantial conformance with the CDP/FDP as determined by the Zoning Administrator. Such minor modifications may be subject to review by the Architectural Review Board to the extent required by Article 7 of the Zoning Ordinance for Historic Overlay Districts and/or the Memorandum of Agreement executed by the Advisory Council for Historic Preservation on June 28, 2001 (“MOA”), as may be applicable.

4. Development and Use.

- a. Landbay 1 – Historic Residential. Development in Landbay 1 shall consist of a maximum of 165 dwelling units of multi-family residential housing, affordable dwelling units, accessory uses, and home occupations as permitted by Article 10 of the Zoning Ordinance, and automated teller machines, located within a multiple family dwelling.

- b. Landbay 2 – New Residential. Development in Landbay 2 shall consist of a maximum of 158 attached single-family dwellings and 25 single-family detached dwellings, accessory uses, and home occupations as permitted by Article 10 of the Zoning Ordinance. The total number of dwelling units in Landbay 2 shall not exceed 181 dwelling units. If approved by the Virginia Department of Historic Resources, the National Park Service, and the Architectural Review Board, the Applicant shall provide usable roof-top space in attached single-family dwellings with partial 4th floors or lofts and may provide them as an option in all other attached single-family dwellings. If approved by the Virginia Department of Historic Resources, the National Park Service, and the Architectural Review Board, the Applicant shall be prohibited from using vinyl siding on the dwelling units in Landbay 2.

- c. Landbay 3 – Historic Non-Residential. Consistent with the CDP/FDP and PDH Zoning District, the uses listed below are permitted. Any use not set forth below and allowed in the PDH Zoning District, may be permitted with approval of a FDPA, special permit, special exception as applicable.
 1. Commercial and industrial uses of special impact (Category 5), limited to:

- A. Quick-service food stores (limited to the first three (3) years after the building in which they are located is put in service)
- 2. Commercial recreation uses (Group 5), limited to:
 - A. Health clubs
- 3. Community uses (Group 4).
- 4. Eating establishments.
- 5. Financial institutions.
- 6. Garment cleaning establishments.
- 7. Institutional uses (Group 3), limited to:
 - A. Churches, chapels, temples, synagogues and other such places of worship.
 - B. Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school, or private school of general or special education. Subject to the provision of the required outdoor recreation area required by Sect. 9-309 & 9-310 of the Zoning Ordinance in the location generally shown on the CDP/FDP.
- 8. Kennels, limited by the provisions of Sect. 6-106 of the Zoning Ordinance (limited to the first three (3) years after the building in which they are located is put in service).
- 9. Offices.
- 10. Personal service establishments.
- 11. Quasi-public uses (Category 3), limited to:
 - A. Child care centers and nursery schools. Subject to the provision of the required outdoor recreation area required by Sect. 9-309 & 9-310 of the Zoning Ordinance in the location generally shown on the CDP/FDP.
 - B. Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school of general or special education. Subject to the provision of the required outdoor recreation area required by Sect. 9-309 & 9-310 of the Zoning Ordinance in the location generally shown on the CDP/FDP.
 - C. Colleges, universities
 - D. Conference centers and retreat houses, operated by a religious or nonprofit organization
 - E. Cultural centers, museums and similar facilities
 - F. Private clubs and public benefit associations
 - G. Private schools of general education. Subject to the provision of the required outdoor recreation area required by Sect. 9-309 & 9-310 of the Zoning Ordinance in the location generally shown on the CDP/FDP.
 - H. Private schools of special education
- 12. Retail sales establishments.

13. Veterinary hospitals (limited to the first three (3) years after the building in which they are located is put in service).
14. Accessory Uses and accessory service uses as permitted by Article 10 of the Zoning ordinance.
15. Fast food restaurants (with a Special Exception).
16. Bed and Breakfasts (with a Special Exception).

d. Landbay 4 – Historic Reuse. Consistent with the CDP/FDP and PDH Zoning District, the uses listed below are permitted. Any use not set forth below and allowed in the PDH Zoning District, may be permitted with approval of a FDPA, special permit, or special exception as applicable.

1. Commercial and industrial uses of special impact (Category 5), limited to:
 - A. Quick-service food stores (limited to the first three (3) years after the building in which they are located is put in service)
2. Commercial recreation uses (Group 5), limited to:
 - A. Health clubs
3. Community uses (Group 4).
4. Eating establishments.
5. Financial institutions.
6. Garment cleaning establishments.
7. Institutional uses (Group 3), limited to:
 - A. Churches, chapels, temples, synagogues and other such places of worship.
 - B. Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school, or private school of general or special education. Subject to the provision of the required outdoor recreation area required by Sect. 9-309 & 9-310 of the Zoning Ordinance in the location generally shown on the CDP/FDP.
8. Kennels, limited by the provisions of Sect. 6-106 of the Zoning Ordinance (limited to the first three (3) years after the building in which they are located is put in service).
9. Offices.
10. Personal service establishments.
11. Quasi-public uses (Category 3), limited to:
 - A. Child care centers and nursery schools. Subject to the provision of the required outdoor recreation area required by Sect. 9-309 & 9-310 of the Zoning Ordinance in the location generally shown on the CDP/FDP.

- B. Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school of general or special education. Subject to the provision of the required outdoor recreation area required by Sect. 9-309 & 9-310 of the Zoning Ordinance in the location generally shown on the CDP/FDP.
 - C. Colleges, universities
 - D. Conference centers and retreat houses, operated by a religious or nonprofit organization
 - E. Cultural centers, museums and similar facilities
 - F. Private clubs and public benefit associations
 - G. Private schools of general education. Subject to the provision of the required outdoor recreation area required by Sect. 9-309 & 9-310 of the Zoning Ordinance in the location generally shown on the CDP/FDP.
 - H. Private schools of special education
12. Retail sales establishments.
 13. Veterinary hospitals (limited to the first three (3) years after the building in which they are located is put in service).
 14. Accessory Uses and accessory service uses as permitted by Article 10 of the Zoning ordinance.
 15. Fast food restaurants (with a Special Exception).
 16. Bed and Breakfasts (with a Special Exception).
 17. Dwellings, multiple family. A maximum of twelve (12) multiple family dwelling units, including affordable dwelling units, may be permitted.

e. Landbay 5 – Historic Site. Consistent with the CDP/FDP and PDH Zoning

District, the uses listed below are permitted. Any use not set forth below and allowed in the PDH Zoning District, may be permitted with approval of a FDPA, special permit, or special exception as applicable.

1. Public uses.

f. Landbay 6 – Historic and New Commercial. Development in Landbay 6 shall consist of a minimum of 100,000 square feet and a maximum of 110,000 square feet of Gross Floor Area. Consistent with the CDP/FDP and PDC Zoning District, the uses listed below are permitted subject to the limitations of Section 6-206 of the Zoning Ordinance. Any use not set forth below and allowed in the

PDC Zoning District, may be permitted with approval of a FDPA, special permit, or special exception as applicable. The potential uses shown on Sheets P-0303, P-0303A, and P-0303B of the CDP/FDP are illustrative in nature. The Applicant may establish any of the below uses in buildings P-01, P-02, P-03, P-04, P-05, P-06, and P-12 in any combination, regardless of the options shown on the CDP/FDP. Further, any of the options for new construction shown on Sheets P-0303, P-0303A, and P-0303B of the CDP/FDP may be utilized in combination with any uses established in buildings P-01, P-02, P-03, P-04, P-05, P-06, and P-12. The final building layout for new construction, the size and location for portions of the penitentiary's north wall being removed, and the final alignment of the White Spruce Way entrance drive shall be determined at the time of final site plan approval for the phase in which Landbay 6 is developed. However, all new building construction shall be located within the penitentiary wall. Additionally, the access point from Silverbrook Road to White Spruce Way shall be in substantial conformance with the location shown on the CDP/FDP. Further, the White Spruce Way access road shall provide access from Spring Hill to Silverbrook Road. Final parking tabulations and parking lot configuration shall be determined at site plan.

Principal Uses

1. Business service and supply service establishments.
2. Eating establishments.
3. Establishments for scientific research, development and training where assembly, integration and testing of products in a completely enclosed building is incidental to the principal use of scientific research, development and training.
4. Financial institutions.
5. Garment cleaning establishments.

6. Offices.
7. Personal service establishments.
8. Public uses.
9. Retail sales establishments.
10. Repair service establishments
11. Theatres limited to 20,000 square feet.

Secondary Uses

1. Accessory uses and accessory service uses as permitted by Article 10 of the Zoning Ordinance.
2. Commercial and industrial uses of special impact (Category 5), limited to:
 - A. Car washes (with a Special Exception)
 - B. Drive-in financial institutions (with a Special Exception)
 - C. Drive-through pharmacies (with a Special Exception)
 - D. Fast food restaurants (either by-right or with a SE pursuant to Sect. 6-206(10) of the Zoning Ordinance)
 - E. Mini-warehousing establishments in buildings P-01, P-02, P-03, P-04, P-05, P-06, and P-12 for the first five (5) years after issuance of the first non-RUP (non-Residential Use Permit) in Landbay 6. After the initial five (5) year period, limited to no more than four (4) of buildings P-01, P-02, P-03, P-04, P-05, and P-06.
 - G. Quick-service food stores
3. Commercial recreation uses (Group 5), limited to:
 - A. Bowling alleys
 - B. Commercial swimming pools, tennis courts and similar courts
 - C. Health clubs
 - D. Archery ranges, fencing and other similar indoor recreational uses
4. Community uses (Group 4).
5. Institutional uses (Group 3).
6. Kennels, as limited by the provisions of Section 6-206 of the Zoning Ordinance.
7. Quasi-public uses (Category 3), limited to:
 - A. Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school of general or special education. Subject to the provision of the required outdoor recreation area required by Sect. 9-309 & 9-310 of the Zoning Ordinance in the location generally shown on the CDP/FDP.
 - B. Colleges, universities
 - C. Conference centers and retreat houses, operated by a religious or nonprofit organization
 - D. Cultural centers, museums and similar facilities
 - E. Medical Care Facilities

- F. Private clubs and public benefit associations
 - F. Private schools of general education
 - G. Private schools of special education
 - H. Child care centers and nursery schools. Subject to the provision of the required outdoor recreation area required by Sect. 9-309 & -310 of the Zoning Ordinance in the location generally shown on the CDP/FDP.
- 8. Veterinary hospitals.
 - 9. Dwellings. Limited to a maximum of 48 dwelling units, including affordable dwelling units within buildings P-01, P-02, P-03, P-04, P-05, and P-06.
- g. Landbay 7 – Historic Residential. Development in Landbay 7 shall consist of a maximum of 6 dwelling units of multi-family residential housing, affordable dwelling units, accessory uses, and home occupations as permitted by Article 10 of the Zoning Ordinance, and Automated teller machines, located within a multiple family dwelling.

5. Phasing.

- a. Sequence of Development. Build-out of the Property may proceed in phases as provided in the attached Exhibit “A”.
- b. Road Phasing. Timing of road construction shall occur as provided in the attached Exhibit “A”.

6. Master Association.

- a. Establishment of Master Association. Prior to record plat approval, the Applicant shall establish a Master Association for the Property for the purpose of, among other things, establishing the necessary covenants governing the design and operation of the approved development and to provide a mechanism for ensuring

the ability to complete the maintenance obligations and other provisions noted in these proffer conditions.

- b. Dedication to Master Association. At the time of subdivision plat recordation, open space, common areas, private driveways, and amenities on the Property not otherwise conveyed or dedicated to the County or the Landbay 2 Home Owners Association (HOA) shall be dedicated to the Master Association and maintained by the same.

7. Landbay 2 HOA

- a. Establishment of HOA. Prior to record plat approval for Landbay 2, the Applicant may establish a HOA for Landbay 2 in accordance with Sect. 2-700 of the Zoning Ordinance for the purpose of, among other things, establishing the necessary residential covenants governing the design and operation of the approved residential development and to provide a mechanism for ensuring the ability to complete the maintenance obligations and other provisions noted in these proffer conditions.
- b. Dedication to HOA. At the time of subdivision plat recordation for Landbay 2 if an HOA is created, open space, common areas, private driveways, and amenities in Landbay 2 not otherwise conveyed or dedicated to the County or the Master Association shall be dedicated to the HOA and maintained by the same.
- c. Disclosure. Prior to entering into a contract of sale in Landbay 2, initial purchasers in Landbay 2 shall be notified in writing by the Applicants of any

maintenance responsibility for the private driveways, stormwater management facilities, common area landscaping and any other open space amenities and shall acknowledge receipt of this information in writing. The initial deeds of conveyance and HOA or Master Association governing documents shall expressly contain these disclosures.

8. Encroachment of Decks and Similar Appurtenances. Bay windows, patios, chimneys, areaways, stairs and stoops, mechanical equipment and other similar appurtenances may encroach into minimum yards as permitted by Section 2-412 and Article 10 of the Zoning Ordinance. Side yards for single-family detached dwellings shall be a minimum of five (5) feet. Decks, porches (including screened in porches) or sunrooms may be permitted in the rear yard in the area identified as “Deck, Addition or Accessory Feature Area” on the lot typical included on Sheet P-0103 of the CDP/FDP. Lattice work, pergolas, trellises, and overhang planter boxes may also be constructed within this area. The specifications of this proffer shall be disclosed to future homeowners in the HOA documents.

9. Garage Conversion. Any conversion of garages or use of garages that precludes the parking of vehicles within the garage is prohibited. A covenant setting forth this restriction shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the Master Association or HOA and the Board of Supervisors. This restriction shall also be disclosed in the Master Association or HOA documents. Prospective purchasers shall be advised of this use restriction, in writing, prior to entering into a contract of sale.

Parking

10. Parking. Parking shall be provided in accordance with the CDP/FDP. The Applicant may restripe the parking without requiring an FDPA or PCA. If fewer dwelling units or development than is shown on the CDP/FDP occurs, the number of parking spaces provided may be reduced accordingly. The Applicant reserves the right to provide parking in excess of that shown in the tabulations in the CDP/FDP if such additional parking is in substantial conformance with the parking locations shown on the CDP/FDP. The Applicant further reserves the right to pursue future parking reductions and shared parking arrangements for the Property as may be permitted by the Fairfax County Zoning Ordinance without the need for an amendment to these Proffers or the CDP/FDP.

On-street parallel parking on the Property shall not be assigned to specific dwelling units. Within Landbay 1, Landbay 4, Landbay 6, and Landbay 7, if parking spaces are assigned to specific dwelling units then visitor parking within each land bay shall be identified by the Applicant.

Transportation

11. Private Streets. The internal private streets shall be constructed with materials and depth of pavement consistent with public street standards in accordance with the Fairfax County Public Facilities Manual (PFM), subject to Department of Public Works and Environmental Services (DPWES) approval. The Applicant reserves the right to seek a waiver from DPWES to permit the use of historic bricks on private streets. The Master Association or HOA, shall be responsible for the maintenance of the private streets. All initial purchasers in Landbay 2 shall be advised of this maintenance obligation prior to

entering into a contract of sale and said obligation will be disclosed in the HOA documents.

12. Traffic Signal. Prior to the issuance of the first non-RUP in Landbay 6, the Applicant shall add a new traffic and pedestrian signal at Silverbrook Road and White Spruce Way if it is approved and warranted by the Virginia Department of Transportation (VDOT). The Applicant shall perform a warrant study for submission to VDOT. If the signal is not warranted by VDOT, the Applicant shall escrow funds for construction of a future signal by others.

13. Construction

a. Hours and Access. The staging and parking of construction vehicles shall occur on the Property, including personal vehicles utilized by construction workers. The hours of initial construction shall be posted in English and in Spanish and shall be limited to the hours between 7:00 a.m. and 9:00 p.m. Monday through Friday and 8:00 a.m. to 9:00 p.m. on Saturdays, Sundays, and Federal Holidays. Outdoor construction activities after 7:00 p.m. on Sunday through Saturday shall be limited to site clean-up work. The Applicant shall provide the Mount Vernon District Supervisor's office with a point of contact for all construction related issues. The Applicant shall provide an initial response to construction related issues within 24 hours of receiving notice of said issues.

b. Park Access. The Applicant shall not interfere with public access on Giles Run Road during construction. To the extent possible, the Applicant shall utilize the access on Silverbrook Road after said access is constructed. If the Applicant damages Giles Run Road during construction, it shall repair such damage to the

extent necessary to maintain public access.

14. ROW Dedication. Upon demand by VDOT or Fairfax County, the owner of the Property, if the Property is not owned by Fairfax County, shall dedicate, at no cost to Fairfax County and in fee simple, without encumbrances, the right-of-way along the site frontage to Giles Run Road, as generally shown on the CDP/FDP and labeled thereon as "PROP. DEDICATION FOR PUBLIC STREET (AREA = ±89,100 SF / ±2.05 AC)" (the "ROW Area"). If the Property is owned by Fairfax County, then Fairfax County shall retain the ROW Area for public street purposes.

15. Bicycle Parking. Both short and long term bicycle parking will be provided for residents, employees, and visitors of the site. The applicant shall install bicycle racks within Landbay 6 and provide bicycle parking/storage facilities within Landbay 1 and Landbay 7. The specific number of bicycle parking spaces, the equipment type, and placement, will be determined through consultation with FCDOT's Bicycle Program Coordinator and shall be generally consistent with the "Fairfax County Guidelines for Bicycle Parking".

16. Giles Run Road. Portions of future Giles Run Road north and south of the Property will be designed and constructed by others. To maintain flexibility for accommodating off-site road design and location, the final on-site location of Giles Run Road may be shifted by the Applicant, in consultation with FCDOT, VDOT, and DPZ, without requiring a PCA, CDPA, FDPA, or proffer interpretation. Additionally, to create a smooth transition from proposed to existing conditions off-site in the event that the Applicant constructs its portion of Giles Run road before off-site segments are complete, the Applicant, in consultation with FCDOT, VDOT, and DPZ, may terminate Giles Run Road in its

ultimate configuration north of the common property line with FCPA and construct a transition from the full road section back to the existing road section off-site.

17. White Spruce Vacation. No applications, plans, plats or permits for the development of Phase 2 of the Property subsequent to the approval of rezoning shall be approved by the Board, its agents, officials, or employees, until the Board has approved the abandonment and/or vacation of White Spruce Way as shown on the CDP/FDP and no action challenging the approval has been filed within thirty (30) days of such approval in a court of competent jurisdiction. In the event the Board does not approve the abandonment and/or vacation, or in the event that the Board's approval is overturned by a court of competent jurisdiction, any development of Phase 2 of the Property shall require a PCA and the Applicant acknowledges and accepts that such amendment may result in loss of density and/or intensity.

Site Design and Amenities

18. Landscape Plan. The CDP/FDP includes a conceptual landscape plan for the Property and detail sheets illustrating the plantings and other features to be provided. As part of each site plan submission, the Applicant shall submit to the Park Authority and Urban Forest Management Division (UFMD) of DPWES for review and comment a detailed landscape plan (the "Landscape Plan"), which shall be consistent with the quality and quantity of plantings and materials shown on the CDP/FDP. Adjustments to the type and location of vegetation and the design of landscaped areas and streetscape improvements/plantings shall be permitted in consultation with the Department of Planning and Zoning (DPZ) and UFMD.

19. Amenities and Facilities for Residents. Pursuant to Section 6-110 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall provide the recreational facilities to serve the Application Property as shown on the CDP/FDP. The Applicant reserves the right to change the programmatic concepts and potential facilities shown on the CDP/FDP in consultation with DPZ. At the time of site plan review for Landbay 1, Landbay 2, and Landbay 7, the Applicant shall demonstrate that the value of any proposed recreational amenities on the Property are equivalent to a minimum of \$1,700 per unit. In the event it is demonstrated that the proposed facilities do not have sufficient value, the Applicant shall contribute funds in the amount needed to achieve the overall proffered amount of \$1,700 per non-ADU unit to the Fairfax County Park Authority ("FCPA") for off-site recreational facilities intended to serve the future residents within the area proximate to the site.
20. Cross-County Trail. The Applicant shall relocate a portion of the cross-county trail located on the property in substantial conformance with the location shown on Sheet P-0306 of the CDP/FDP. The relocated trail shall be designed to a standard and configuration that is substantially the same as exists in adjacent sections of the cross-county trail.
21. Lighting. All outdoor lighting fixtures shall be in accordance with the Performance Standards contained in Part 9 (Outdoor Lighting Standards) of Article 14 of the Zoning Ordinance. Lighting may be subject to review by the Architectural Review Board to the extent required by Article 7 of the Zoning Ordinance for Historic Overlay Districts and/or the Memorandum of Agreement executed by the Advisory Council for Historic Preservation on June 28, 2001 ("MOA"), as may be applicable.

22. Signage. Signage for the Property shall be provided in accordance with the requirements of Article 12 of the Zoning Ordinance or pursuant to a Comprehensive Sign Plan approved by the Planning Commission. No temporary signs (including “popsicle” style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on-site or off-site by the Applicant or at the Applicant’s direction to assist in the marketing and sale of homes on the subject Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and/or sale of residential units on the subject Property to adhere to this proffer. Signage may be subject to review by the Architectural Review Board to the extent required by Article 7 of the Zoning Ordinance for Historic Overlay Districts and/or the Memorandum of Agreement executed by the Advisory Council for Historic Preservation on June 28, 2001 (“MOA”), as may be applicable.

23. Interpretative Signage. The Applicant shall provide five (5) interpretation signs at locations determined by the FCPA, in consultation with DPZ. The FCPA, in consultation with DPZ, shall provide the content and design of the signs upon request by the Applicant. The FCPA, at its sole cost and expense, may request additional interpretation signs and the Applicant shall reasonably cooperate to provide such signs. As an alternative to providing five (5) interpretive signs, the Applicant may make a \$5,000 monetary contribution to the FCPA to be used by FCPA exclusively for interpretive purposes on the Property. Such interpretive purposes may include, but are not limited to, signage, self-guided tour programs/guides, and web-based interpretation opportunities.

24. Public Art. The Applicant shall reasonably accommodate the placement of the public art within greens and/or adaptive reuse open space, however, the Applicant shall not be responsible for any cost or expense associated with or arising from its commission, installation, or maintenance.

Architecture

25. Architectural Approval for New Structures. All construction and development shall be subject to review by the Architectural Review Board to the extent required by Article 7 of the Zoning Ordinance for Historic Overlay Districts and/or the Memorandum of Agreement executed by the Advisory Council for Historic Preservation on June 28, 2001 (“MOA”), as may be applicable.

26. ARB Disclosure. Prior to entering into a contract of sale, initial purchasers in Landbay 2 shall be notified in writing by the Applicants that exterior design changes, to the extent provided in Article 7 of the Zoning Ordinance for Historic Overlay Districts and/or the MOA, are subject to review and approval by the Architectural Review Board. The initial deeds of conveyance and HOA governing documents shall expressly contain these disclosures.

27. Landbay 5 Clearing and Grading. At least 2 weeks prior to commencing clearing and grading within Landbay 5 the Applicant shall provide written notice to the Fairfax County Cultural Resource Management and Protection Branch. During grading, an archaeologist from the CRMPB or an approved contract archaeologist may monitor the ground disturbance to ensure that it does not reveal graves. In the event of an unanticipated discovery of graves, the archaeologist will consult with staff from DPZ and

the Virginia Department of Historic Resources to plan next steps, as per the Virginia Antiquities Act (Code of Virginia, Section 10.1-2305) which sets forth the procedures to follow when a cemetery is discovered and threatened with destruction.

28. Fencing for Protection of Historic Resources. As part of the site plan submission for each phase, the Applicant shall submit a plan to DPZ for review and approval showing the location and detail of fencing or other protective measures for historic resources impacted by construction during that phase.
29. Interpretive Center. The Applicant shall permit Fairfax County or a 3rd party organization to use structure P-07 as an interpretive center, or with the approval of the Applicant, an alternative location in a different or additional penitentiary guard tower or building. The hours of operation, assumption of liability, and insurance requirements shall be approved by the Applicant and Lessee, and the Master Association if required. The County or 3rd party organization shall be solely responsible for all operational costs, maintenance, repairs, and any other costs related to or arising from the interpretive center.
30. Extant Prison Features. The Applicant shall retain extant features such as signs, roster boards, beds, lockers, select cellblocks and contents, and other prison-related materials for the purpose of incorporating into the redevelopment, or displaying in common or designated areas of the redevelopment, as appropriate. Items not deemed suitable for reuse, as determined by the Applicant, shall be offered to the County before disposal.

Environment

31. Stormwater Management.

- a. The Applicant shall implement stormwater management techniques to control the quantity and quality of stormwater runoff from the Property in accordance with

the PFM as shown on the conceptual stormwater management plan included as sheets P-0502 through P-0504 of the CDP/FDP. The Applicant shall in good faith and using commercially reasonable efforts strive to achieve at full build out a stormwater runoff reduction goal of 0.20 inches based on 1 inch depth of rainfall. The Applicant will not be required to achieve 0.20 inches of runoff reduction at each development phase. The stormwater runoff goal includes assumptions by the Applicant using tools created in support of the Virginia Department of Conservation and Recreation Stormwater Management Regulations established September 13, 2011. These tools primarily include Table 4.1 of the Virginia Stormwater BMP Clearinghouse and the Virginia Runoff Reduction Method Worksheet developed by the Center for Watershed Protection. Based upon final site conditions or changes in the Applicant's underlying assumptions regarding stormwater management, the conceptual stormwater management plan shown on the CDP/FDP and the stormwater runoff reduction goal in this proffer may be modified in consultation with DPWES without the need for a PCA or FDPA.

- b. In order to achieve the runoff reduction goals described in part a above as well as demonstrate compliance with the requirements of the Public Facilities Manual (PFM), the Applicant will design water quality and runoff reduction facilities in accordance with the specifications provided in the PFM when such specifications are available, and in accordance with the Virginia Stormwater BMP Clearinghouse when PFM specifications are not available. The phosphorus removal efficiencies for all proposed facilities will be credited toward PFM compliance using PFM values when available, and using values described in the

Virginia Stormwater BMP Clearinghouse when PFM values are not available.

The runoff reduction achieved by each facility per the Virginia Stormwater BMP Clearinghouse will also be credited toward PFM requirements for runoff reduction and resulting stormwater detention requirements.

Any proposed stormwater measures that are included in the Virginia Stormwater BMP Clearinghouse but not in the PFM, will be considered scientifically valid alternatives and will count toward satisfying PFM requirements for water quality and stormwater detention. The Applicant reserves the right to request modifications or waivers of pertinent PFM sections as required to facilitate these alternative measures. If the PFM modifications or waivers cannot be granted, then the phosphorus removal requirements for the overall site may be reduced to 36%, subject to DPWES approval, upon demonstration by the Applicant that total phosphorus removal of all innovative BMP practices would have otherwise resulted in at least a 42% reduction. The reductions referenced in this subsection shall apply to the entire site at full build out. Individual phases may have a lower phosphorus reduction percentage. In the event that DPWES does not approve the requested modifications and waivers, the Applicant may change or add BMP facilities as necessary to satisfy minimum PFM requirements without the need for a PCA or FDPA.

- c. Should the U.S. Environmental Protection Agency, the Commonwealth of Virginia, Fairfax County, or their designee, issue new or additional stormwater management requirements or regulations affecting the Property, the Applicant shall have the right to accommodate necessary changes to its stormwater

management designs without the requirement to amend the CDP/FDP or these proffers or gain approval of an administrative modifications to the CDP/FDP or proffers. Such changes to the stormwater management design shall not materially impact the limits of clearing and grading, building locations, or road layouts.

32. Green Building.

- a. New Single-Family Residential Construction. To promote energy conservation and green building techniques; the Applicant shall select one of the following programs, within its sole discretion at time of site plan submission, to be implemented in the construction of single-family residential dwelling units:
 - i. ENERGY STAR Qualified Homes. The new dwelling units shall be constructed to achieve qualification in accordance with ENERGY STAR® for Homes or equivalent program. Such qualification will be demonstrated by the submission of documentation to the Environment and Development Review Branch of DPZ from a home energy rater certified through the Residential Energy Services Network (RESNET) program which shows that each dwelling unit has attained the ENERGY STAR® for Homes qualification prior to the issuance of the RUP for each dwelling.
 - ii. Earthcraft House Program. Certification in accordance with the Earthcraft House Program or equivalent program as demonstrated through documentation provided to DPWES and DPZ prior to the issuance of a RUP; or

- iii. National Association of Home Builders (NAHB). Certification in accordance with the 2012 National Green Building Standard (NGBS), using the ENERGY STAR® Qualified Homes path for energy performance or equivalent program, as demonstrated through documentation submitted to DPWES and the Environmental and Development Review Branch of DPZ from a home energy rater certified through Home Innovation Research Labs that demonstrates that the dwelling unit has attained the certification prior to the issuance of the RUP for each dwelling.

- b. Historic Residential Adaptive Reuse. The Applicant is not required to achieve green building certification but shall include the following green building elements in the adaptive reuse residential buildings.
 - i. All new fixtures and appliances will be EPA Water Sense labeled. All toilets will be 1.28 GPF, showerheads 1.75 GPM, kitchen faucets 2.0 GPM, bathroom faucets 1.5 GPM.
 - ii. All clothes washer, dishwashers, and refrigerators will be Energy Star labeled
 - iii. Energy Star Advanced Lighting Package (ALP) will be installed in each apartment. Apartment lighting packages will consist of a minimum of 60% Energy Star qualified fixtures. Only Energy Star fixtures will be provided on building exteriors and will be controlled with daylight sensors.

- iv. All residential apartment units will be individual metered for electrical usage.
 - v. Contract specifications will include a waste management plan. All reuseable construction waste will be reassigned to an alternative work site or donated to Habitat ReStore. All construction waste with emphasis on wood, metal and cardboard will be recycled at local recycling stations to the fullest extent possible with a minimum 25% recycled.
 - vi. Low/No VOC paints and primers meeting the GreenSeal standards will be used according to all specifications.
 - vii. Low/No VOC adhesives conforming with SCAQMD and caulks and sealants conforming to BAAQMD will be used per all specifications.
 - viii. Only Urea Formaldehyde-free composite wood materials compliant with ANSI A208.1 and A208.2 emission limits will be used.
 - ix. Green Label certified floor covering will be used or existing flooring will be reused
- c. New and Adaptive Reuse Commercial. The Applicant is not required to achieve green building certification but shall include green building elements in the new and adaptive reuse commercial buildings within Landbay 6. The Applicant shall include, as part of the site plan submission and building plan submission, a list of specific credits within the most current version of the U.S. Green Building Council's LEED-NC rating system, or other equivalent rating system determined

to be applicable to the building(s) in consultation with the Environment and Development Review Branch of the Department of Planning and Zoning. A LEED-accredited professional (LEED-AP) who is also a professional engineer or licensed architect will provide certification statements at both the time of site plan review and the time of building plan review confirming that the items on the list will meet at least 75% of the credits or 75% of the prerequisite requirements listed under the LEED-NC rating system or equivalent program needed for certification. At the time of site plan review the LEED-AP should submit a checklist of the 75% of credits or requirements they intend achieve to DPZ. The Applicant shall consult with DPZ on the post-construction documentation evidencing achievement of the required credits. Prior to final bond release, the LEED-AP shall submit a statement, with supporting documentation, that the required credits would have been achieved under the LEED-NC rating system, or other equivalent rating system.

33. EQC Mitigation. EQC mitigation shall be provided in in the areas and using the methods shown on the CDP/FDP.

Tree Preservation

34. Tree Preservation Plan. The applicant shall submit a Tree Preservation Plan and Narrative as part of the first and all subsequent submissions of the site plan review process. The preservation plan and narrative shall be prepared by a Certified Arborist or a Registered Consulting Arborist, and shall be subject to the review and approval of the Urban Forest Management Division (UFMD), DPWES. The Tree Preservation Plan and

Narrative for each site plan shall be limited to the portion of the site included in said site plan.

The tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees to be preserved, as well as all on and off-site trees, living or dead with trunks 10 inches in diameter and greater (measured at 4 1/2 -feet from the base of the trunk or as otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) located in the area to be left undisturbed and within 25 feet of the limits of clearing and grading, and in the disturbed area and within 10 feet of the limits of clearing and grading. The tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the CDP/FDP and those additional areas in which trees can be preserved as a result of final engineering. The tree preservation plan and narrative shall include all items specified in PFM 12-0507 and 12-0509. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, including but not limited to: crown pruning, root pruning along the limits of clearing (LOC), mulching, fertilization, installation of welded wire tree protection fencing and others as necessary, shall be included in the plan.

35. Tree Preservation Walk-Through. For each site plan, the Applicant shall retain the services of a certified arborist or registered consulting arborist, and shall have the limits of clearing and grading included in the applicable site plan marked with a continuous line of flagging prior to the walk-through meeting as part of the tree preservation plan. During the tree preservation walk-through meeting which shall occur prior to the commencement

of construction, the Applicant's certified arborist or registered consulting arborist shall walk the limits of clearing and grading with an UFMD, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented.

Trees that are identified as dead or dying may be removed as part of the clearing operation as shown on the CDP/FDP as having died. Any tree that is so designated shall be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions

36. Limits of Clearing and Grading. The Applicant shall conform strictly to the limits of clearing and grading as shown on the CDP/FDP for the property included in each site plan, subject to allowances specified in these proffered conditions and for the installation of utilities and/or trails as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the CDP/FDP, they shall be located in the least disruptive manner necessary as determined by the UFMD, DPWES. A replanting plan shall be developed and implemented, subject to approval by the UFMD, DPWES, for any areas protected by the limits of clearing and grading that must be disturbed for such utilities.

37. Tree Preservation Fencing. All trees shown to be preserved on the tree preservation plan for each site plan shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees shall be erected at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets, as may be modified by the "Root Pruning" proffer below.

All tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD, DPWES, shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by the UFMD, DPWES.

38. Root Pruning. The Applicant shall root prune after the tree preservation walk-through for each site plan, as needed to comply with the tree preservation requirements of these proffers. All treatments shall be clearly identified, labeled, and detailed on the erosion

and sediment control sheets of the site plan submission. The details for these treatments shall be reviewed and approved by the UFMD, DPWES, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

- a. Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
- b. Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- c. Root pruning shall be conducted with the supervision of a certified arborist.
- d. An UFMD, DPWES, representative shall be informed when all root pruning and tree protection fence installation is complete.

39. Site Monitoring. During any clearing or tree/vegetation/structure removal on the Applicant Property, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted as proffered and as approved by the UFMD. The Applicant shall retain the services of a certified arborist or registered consulting arborist to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with all tree preservation proffers, and UFMD approvals. Written status reports detailing observations and stating conformance and/or violation regarding required protection and control measures shall be submitted to UFMD following monitoring visits. The monitoring schedule shall be described and detailed in

the Landscaping and Tree Preservation Plan, and reviewed and approved by the UFMD, DPWES.

40. Tree Appraisal. The Applicant shall retain a professional arborist with experience in plant appraisal, to determine the replacement value of all trees 10 inches in diameter or greater located on the Application Property within 25 feet of the limits of clearing and grading that are shown to be saved on the Tree Preservation Plan. These trees included in a specific site plan and their value shall be identified on the Tree Preservation Plan at the time of the first submission of the respective site plan(s). The replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plan Appraisal published by the International Society of Arboriculture, subject to review and approval by UFMD.

At the time of the respective site plan approvals, the Applicant shall post a cash bond or a letter of credit payable to the County of Fairfax to ensure preservation and/or replacement of the trees for which a tree value has been determined in accordance with the paragraph above (the "Bonded Trees") that die or are dying due to unauthorized construction activities. The letter of credit or cash deposit shall be equal to 50% of the replacement value of the Bonded Trees. At any time prior to final bond release for the improvements on the Application Property constructed adjacent to the respective tree save areas, should any Bonded Trees die, be removed, or are determined to be dying by UFMD due to unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be of equivalent size, species and/or canopy cover as approved by UFMD. In addition to this replacement obligation, the Applicant shall also

make a payment equal to the value of any Bonded Tree that is dead or dying or improperly removed due to unauthorized construction activity. This payment shall be determined based on the Trunk Formula Method and paid to a fund established by the County for furtherance of tree preservation objectives. Upon release of the bond for the improvements on the Application Property constructed adjacent to the respective tree save areas, any amount remaining in the tree bonds required by this proffer shall be returned/released to the Applicant.

41. Off-Site Tree Preservation. If off-site construction on the Giles Run Park property is contemplated, then prior to site plan approval for the phase including such work, the Applicant, in consultation with the Urban Forestry Management Division, shall develop and implement measures to reasonably protect off site trees and vegetation located at or near such off-site construction. The requirements of this proffer shall not require the Applicant to undertake or obtain permission for work beyond the boundaries of the Application property.

Affordable Housing

42. Landbay 1. The Applicant shall provide a minimum of 44 Affordable Dwelling Units ("ADUs") in Landbay 1. If residential units are provided in Landbay 4 and/or Landbay 6, the Applicant shall provide ADUs in accordance with the Part 8 of Article 2 of the Zoning Ordinance (the "ADU Ordinance"). Those ADUs may be located in Landbays 1, 4, or 6. The ADUs shall be administered in accordance with the ADU Ordinance or as modified by the Affordable Dwelling Unit Advisory Board. The ADUs shall be provided and administered as either for-sale or rental units consistent with market rate units in the same building in accordance with the requirements of the ADU Ordinance.

Miscellaneous

43. School Notification. Notification shall be given to Fairfax County Public Schools (FCPS) when construction is anticipated for the residential phases to commence to assist FCPS by allowing for the timely projection of future students.
44. Severability. Pursuant to Section 18-204 of the Zoning Ordinance, any portion of the Property may be the subject of a proffered condition amendment ("PCA"), Special Exception ("SE"), Special Permit ("SP"), or Final Development Plan Amendment ("FDPA") without joinder and/or consent of the owners of the other portions of the Property, provided that such PCA, SE, SP or FDPA does not materially adversely affect the other phases. Previously approved zoning applications applicable to the balance of the Property that is not the subject of such a PCA, SE, SP or FDPA shall otherwise remain in full force and effect.
45. Successors and Assigns. These Proffers will bind and inure to the benefit of the Applicant and their successors and assigns. Each reference to "Applicant" in this proffer statement shall include within its meaning and shall be binding upon Applicant's successor(s) in interest and/or developer(s) of the site or any portion of the site.
46. Counterparts. These Proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

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**BOARD OF SUPERVISORS OF
FAIRFAX COUNTY, VIRGINIA**
Title Owner of the Property

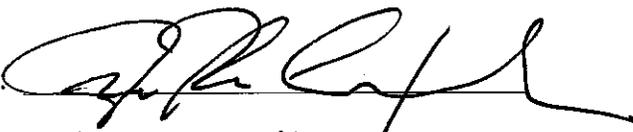
By: _____

Name: Edward L. Long, Jr.

Title: County Executive

THE ALEXANDER COMPANY, INC.

Applicant

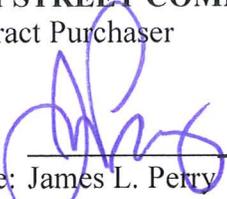
By: 

Name: Joseph M. Alexander

Title: President

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ELM STREET COMMUNITIES, INC
Contract Purchaser

By:  _____
Name: James L. Perry
Title: Vice President