

**PROFFER STATEMENT
ARROWBROOK PARK
PCA 2002-HM-043 AND FDPA 2002-HM-043-2**

June 1, 2015

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 "Zoning Ordinance"), the Fairfax County Park Authority ("FCPA"), as the owner and applicant, for itself and its successors and assigns (the "Applicant"), in this proffered condition amendment hereby proffers that the development of the property identified on the Fairfax County Tax Map as 16-3 ((1)) 5D (the "Property") shall be in accordance with the following conditions ("Proffers") if, and only if, approval of applications PCA 2002-HM-043 and FDPA 2002-HM-043-2 (collectively, the "Application") is granted by the Fairfax County Board of Supervisors. The Applicant reconfirms its commitment to the proffers associated with RZ 2002-HM-043, as amended (the "2005 Proffers"), as are applicable to the Property, except as modified herein. These Proffers, if accepted, amend and supplement only those 2005 Proffers referenced below. In the event this Application is denied, these Proffers will immediately be null and void and of no further force and effect, and the 2005 Proffers shall remain in effect.

AMENDMENT OF 2005 PROFFERS

1. Proffer 1 of the 2005 Proffers is hereby deleted in its entirety and replaced with the following:

1. Development Plan. Development of the Property shall be in substantial conformance with the Final Development Plan Amendment ("FDPA") dated June 4, 2014, and revised through May 29, 2015, prepared by William H. Gordon Associates, Inc., and consisting of Sheets 25 – 37, as further described below.

2. Proffer 3 of the Existing Proffers is hereby deleted in its entirety and replaced with the following:

3. CDP Elements. Notwithstanding that the Conceptual Development Plan and the Final Development Plan associated with RZ 2002 HM-043, prepared by Patton, Harris, Rust & Associates, P.C., consisting of 27 sheets dated June 3, 2002, and revised through October 28, 2005 (the "2005 CDP/FDP"), were presented on the same sheets and defined as the CDP/FDP in the 2005 Proffers, it shall be understood that the CDP shall be the entire plan relative to the location of access, the maximum square footage of floor area, the amount of open space, the general location and arrangement of the buildings, uses, and parking garages, and the peripheral setbacks (collectively, the "CDP Elements"). The Applicant shall have the option to request a Final Development Plan Amendment for elements other than the CDP Elements from the Planning Commission for all or a portion of the FDPA in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance, provided such FDPA is in substantial conformance with these Proffers.

3. Proffer 16.E of the 2005 Proffers is hereby deleted in its entirety and replaced with the following:

E. Wetland amenities south of Sunrise Valley Drive, including boardwalks, nature trails, a gazebo, butterfly garden and interpretive stations as generally shown on Sheet 36 of the FDPA.

4. Proffer 17 of the 2005 Proffers is hereby deleted in its entirety and replaced with the following:

17. Landscape Plan. The Applicant shall allow JLB Dulles Tech, LLC (“JLB”), owner of the property identified as Fairfax County Tax Map 16-3 ((1)) 4M (“JLB Property”) and the applicant under RZ 2013-DR-017 and PCA 79-C-037-7, or its successors and assigns, to prepare and submit a landscape plan for the Property as part of the site plan for the Property which shall be coordinated with and approved by the Urban Forest Management Division of the Department of Public Works & Environmental Services (“UFMD”) and FCPA. The landscape plan shall be in substantial conformance with the 2005 CDP/FDP landscape concepts plan as to density and quality of plantings, and in general conformance with the location of plantings as shown on Sheet 37 of the FDPA. The Applicant and JLB shall be permitted to relocate, remove, or modify plantings, tree preservation areas, and/or open space areas to avoid conflicts with utilities without the need for a PCA, CDPA, or FDPA, provided any such modifications: (i) are made in consultation with, and subject to the approval of, UFMD, DPWES, and FCPA (ii) with the intent to provide the plantings, tree preservation areas, and open space areas shown on the FDPA to the extent possible given the utility needs and pond modifications, and (iii) the overall tree canopy shown on the 2005 CDP/FDP is not reduced.

5. Proffer 26.A of the 2005 Proffers is hereby deleted in its entirety and replaced with the following:

A. In order to accommodate the extension of McNair Farms Drive across the Property as shown on Sheet 31 of the FDPA, the Applicant shall allow JLB to modify the existing enhanced wetlands/stormwater detention and water quality facility constructed on the Property pursuant to the 2005 Proffers which shall continue to provide for stormwater detention and water quality control. The extended detention embankment, stormwater management pond, and Best Management Practices (“BMP”) facility shall continue to include the existing features to enhance its environmental qualities, such as a sediment forebay, a butterfly garden, outlet micropool, and vegetated cover of riprap spillways and outfalls (by use of topsoil dispersed within riprap) as depicted on Sheet 36 of the FDPA. In order to implement the extension of McNair Farms Drive and the associated modifications to the stormwater management facilities on the Property, it is understood that DPWES has already issued an approved floodplain study (3717-FPS-02-1), an approved Resource Protection Area (“RPA”) delineation (5574-RPA-02-1), and an approved RPA waiver/exemption and water quality impact assessment (5574-WQ-001-1) to permit the fill/grading and stormwater

management facilities associated with the construction of the McNair Farms Drive extension across the Property. Concurrent with this application, two Special Exception Amendment applications have been filed to permit uses in a floodplain (SEA 2002-HM-046 and SEA 85-C-119), both jointly filed by FCPA and JLB Dulles Tech, LLC. The Applicant shall allow JLB to implement such fill/grading and modifications to the existing stormwater management facilities in accordance with Sheets 25 – 37 of the FDPA and any conditions related to the approval of these SEA applications, provided the Applicant may make minor modifications to the fill/grading and stormwater management facilities in consultation with, and subject to the approval of, DPWES and FCPA without the need for a PCA, CDPA, or FDPA.

Notwithstanding the fact that the Applicant shall allow JLB to implement the fill/grading and modifications to the existing stormwater management facilities on the Property as described above, the stormwater management facilities described above shall be and remain the Property of Fairfax County for public use, however, Arrowbrook Centre, LLC, and its successors and assigns, shall continue to manage and maintain such stormwater management facilities on the Property, at their sole cost and expense, in accordance with the 2005 Proffers. Under the 2005 Proffers, such maintenance responsibility shall include periodic dredging of the ponds described above to ensure their continued functionality per their applicable design characteristics. The Applicant is currently a party to a separate maintenance agreement with Arrowbrook Centre, LLC for the continued maintenance of the stormwater management facilities. If any modification to the existing maintenance agreement is necessitated due to the proposed pond revision, such modification shall be addressed by others and in a form acceptable to the Office of the Fairfax County Attorney, as necessary to ensure the continued maintenance consistent with the intent of Proffer 26.A and the 2005 Proffers. JLB shall have no obligation to maintain the stormwater management facilities following completion of the pond modifications described in these Proffers.

6. Proffer 30 of the 2005 Proffers is hereby deleted in its entirety and replaced with the following:

30. Park Dedication and Improvements.

A. The Property has been dedicated to the Fairfax County Park Authority in accordance with the 2005 Proffers. Sheet 36 of the FDPA reflects the use of parkland on the Property as a passive park and stormwater management facility approved with the 2005 CDP/FDP, which uses the Applicant shall continue in accordance with this Application. The Applicant, its successors and assigns, reserve the right to modify the parkland design as may be necessary with final engineering for the fill/grading and stormwater management facilities associated with the extension of McNair Farms Drive across the Property and to revise secondary facilities, modify trails, and other similar park facilities on the Property, without the need for

a PCA, CDPA, or FDPA if approved by FCPA and otherwise in general conformance with the FDPA.

B. The Applicant shall allow JLB to provide the following services and improvements in accordance with FCPA, County, and State standards:

- i. Preparation of requisite site plans and approvals of necessary construction and VDOT entrance permits.
- ii. Site preparation work shall conform to Chapter 104 of the Code of Fairfax County, Virginia.
- iii. Implementation of the modifications to the enhanced wetlands/storm water detention and water quality facility as described in Proffer 26.A.
- iv. Landscape improvements and passive recreational facilities depicted on Sheet 36 of the FDPA, including interpretive nature exhibit(s) near the southern end of the reconstructed pond, benches, and the wetlands nature area.
- v. Trail modifications as necessary, as shown on the FDPA, to reconnect existing trail segments disrupted due to the road and pond construction.

C. The Applicant shall ensure the retention of park features constructed on site pursuant to the 2005 Proffers, including:

- i. Boardwalks
- ii. Gazebo
- iii. Interpretive nature exhibits along Merrybrook Run
- iv. Trails
- v. A parking lot containing approximately 15 spaces.

D. With the exception of trails, all recreational facilities constructed within the Property shall be constructed to the accessibility standards and guidelines set forth by the United States Access Board for public park facilities. All trails located within the Property should be accessible to the maximum extent possible as determined by the FCPA Trail Coordinator. Recreational facilities other than park trails shall be approved by the FCPA ADA Coordinator prior to site plan approval.

ADDITIONAL NEW PROFFERS

44. Right-of-Way Dedication. The Applicant shall dedicate in fee simple the right-of-way (the "FCPA Right-of-Way") necessary to accommodate a four-lane section of the McNair Farms Drive extension to be constructed by JLB across the Property, as shown as "Approximately 0.8 Acres of Right-of-Way Dedication" on Sheet 31 of the FDPA, to the Board of Supervisors for public street purposes. The Applicant shall dedicate the FCPA Right-of-Way no later than ninety (90) days after the Board of Supervisors approval of this Application.

45. Construction Easements. The Applicant shall grant any temporary construction and grading, drainage, stormwater management, and maintenance-related easements (the "FCPA Easements"), consistent with FCPA policy, as necessary to accommodate the fill/grading for a four-lane section of the McNair Farms Drive Extension and the construction of a three-lane section of the McNair Farms Drive Extension across the Property, as shown on Sheet 31 of the FDPA, to the Board of Supervisors. The Applicant shall grant the FCPA Easements no later than (90) days after the Board of Supervisors approval of this Application.

46. McNair Farms Drive Extension. No later than (90) days after the Board of Supervisors approval of this Application, the Applicant shall enter into a separate written agreement with JLB, in a form acceptable to the Office of the County Attorney, to provide for the fill/grading of the Property for a four-lane section of the McNair Farms Drive extension and the construction by the owner of the JLB Property, or its successors and assigns, of a four-lane section of the McNair Farms Drive extension generally as shown on Sheet 31 of the FDPA. Such written agreement shall set forth the details for the dedication of the FCPA Right-of-Way, the granting of the FCPA Easements, the fill/grading for and construction of the McNair Farms Drive extension, and the modifications to the existing stormwater management facilities on the Property necessary to accommodate the McNair Farms Drive extension in accordance with these Proffers. Such agreement shall also memorialize JLB's commitment to significant in-kind concessions for the dedication of right-of-way and required easements including: (i) treatment for the removal of invasive species around the perimeter of the stormwater management facility, (ii) reestablishment of the same area with native vegetative cover, (iii) the design and installation of one accessible interpretive feature, (iv) installation of one additional bench, and (v) reconstruction of trail connections within the park disrupted by the construction of the McNair Farms Drive extension.

47. Reservation of Density Credit. Development density approved with RZ 2002-HM-043 was granted, in part, with respect to the acreage of the Property. The Applicant affirms that any density credit related to the Property is reserved to the benefit of Parcels 16-3 ((1)) 39A1, 39A2, 39B3, and 39B4.

48. Responsibility to Construct McNair Farms Drive Extension and Associated Work. If JLB and its successors and assigns do not complete the above-referenced work related to the extension of McNair Farms Drive, the Park Authority is not obligated to complete such work.