

PROFFERS
NVCommercial Incorporated and Clyde's Real Estate Group, Inc.
RZ 2011-PR-005

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PROFFERS

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September 20, 2013

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 owners and Applicants, for themselves and their successors and/or assigns (referred to hereafter, both collectively and, where appropriate, individually as the "Applicants"), hereby proffer that the development of the parcels under consideration and shown on the Fairfax County 2013 tax maps as Tax Map 29-3 ((1)) 65, 71, 71A pt., 72, 73, 75, 76 and 78A (collectively, the "Property") shall be in accordance with the following conditions if, and only if, Rezoning application 2011-PR-005 (this "Rezoning") is granted.

GENERAL

1. Conceptual Development Plan. The Property shall be developed in substantial conformance with the proffered elements of the Tysons Central Conceptual Development Plan ("CDP") dated February 22, 2011 and revised through August 15, 2013, prepared by VIKA, Incorporated, Davis, Carter, Scott Ltd and LSG Landscape Architecture Inc.

The CDP includes two options; Option 1 represents the maximum commercial proposal. Option 2 represents the maximum residential proposal. Option 1 is depicted as the primary design on Sheets C-6 and C-6A of the CDP. The design variations included in Option 2 are shown in the inset boxes on Sheets C-6 and C-6A. The Applicants reserve the right to develop in accordance with either option or a combination of the two options, provided the maximum gross square footages identified in Proffer 6 are not exceeded.

2. Proffered CDP Elements. It shall be understood that the proffered elements of the CDP are limited to the grid of streets, general location of the points of access, general location of the buildings and build-to-lines, general mix of uses, minimum and maximum gross floor area ("GFA"), minimum and maximum building heights, amount and general location and character of urban park land, and general quality and character of the streetscape (the "Proffered Elements"). A future amendment to the Proffered Elements shall require a subsequent Conceptual Development Plan Amendment ("CDPA") or Proffered Condition Amendment ("PCA"). Other elements of the CDP may be adjusted or modified with approval of future Final Development Plans ("FDPs") in accordance with the provisions set forth in Section 16-402 of the Fairfax County Zoning Ordinance (the "Ordinance").
3. Minor Modifications. Minor modifications to the Proffered Elements of the CDP may be permitted without the need for a CDPA or PCA when necessitated by sound engineering or that may become necessary as part of FDP approval or final site design or engineering,

pursuant to Section 16-403(4) of the Ordinance provided the development is in substantial conformance with the CDP and these Proffers.

4. Declarations/Owners Associations. The Applicants shall cause the recordation of one or more declarations creating an umbrella owners' association ("UOA") and as necessary, condominium owners' associations ("COA") or declarations of covenants and agreements dealing with the governance of maintenance and operation of the Property or other governance documents which will legally bind the Property, (collectively referred to as the "Governance Documents"). Such Governance Documents shall be prepared, be legally effective and recorded prior to the issuance of the first Non-Residential use Permit ("Non-RUP") or Residential Use Permit ("RUP") for any new construction as shown on the CDP. The respective Governance Documents shall specify the various proffer and maintenance obligations set forth in these Proffers, including the maintenance of certain streets, associated sidewalks, streetscapes and furnishings, and site amenities such as, but not limited to, the publicly accessible park areas and implementation/management of a transportation demand management program. The Governance Documents shall be included in any offering, sale materials or contracts for any condominiums. Purchasers of land or buildings shall be advised of these obligations in the contract of sale.

PROPOSED DEVELOPMENT

5. Existing Development and Interim Uses.

- A. The Property is currently developed with seven existing buildings which contain approximately 82,403 square feet and associated surface parking lots (collectively, the "Existing Development"). The Existing Development on the Property, as shown on the CDP, may remain in use as an initial phase until such time as the portion of the Property on which the existing structure(s) is located is redeveloped in accordance with this application, or as otherwise stated in these Proffers. The structures may not be enlarged, except minor building additions may be approved by the Zoning Administrator pursuant to the provisions of Par. 4 of Sect. 16-403 of the Ordinance. Modifications to the interior and exterior of structures and associated parking areas shall be permitted. Changes may be made to the site conditions as shown in the phasing Sheets A-176 through A-178 of the CDP (the "Phasing Sheets") and changes may be made to accommodate interim uses.
- B. Any use that is permitted by-right in the Planned Tysons Corner Urban ("PTC") District, with the exception of residential and hotel uses, may also be permitted within existing structures as an interim use subject to the Use Limitations in Sect. 6-505 and the provisions of Paragraph A above.
- C. Any use of existing structures requiring a minor site plan or site plan shall incorporate peripheral and interior parking lot landscaping to the degree practicable, provided existing parking spaces are not reduced.

- D. Existing structures may be partially demolished to accommodate the construction in the early phases of development of the Property. In that event, the portion of the existing structures to remain shall be included in the associated FDP for the new development.
 - E. The Applicants may restore any portion of the Existing Development including any modifications or improvements consistent with this Proffer that later is destroyed or damaged by casualty, subject to Article 15 of the Ordinance.
 - F. Commercial off-street parking may be provided on an interim basis as set forth in Proffer 41.
 - G. In order to provide activity on the Property and avoid portions of the Property being vacant for an extended period of time, new interim structures and interim uses shall be permitted. Such interim buildings/uses shall require approval of an FDP, special exception or special permit as may be applicable but shall be deemed in conformance with the CDP subject to the following conditions:
 - (i) Interim pop-up uses and/or buildings shall be permitted on the Property adjacent to the Greensboro Metro Station as shown generally shown on Sheet L-8.1 of the CDP and as described in Proffer 52A without the requirement for a FDP.
 - (ii) Other interim pop-up uses and/or buildings shall be permitted with approval of a FDP in the areas designated for such potential uses on the Phasing Sheets.
 - (iii) Any use permitted in the PTC District, with the exception of residential and hotel uses, may also be permitted as an interim use within existing or interim buildings, subject to the use limitations of Section 6-505 as may be waived or modified by the Board of Supervisors.
 - (iv) New interim structures and uses shall provide improvements to pedestrian connectivity and interim streetscaping in accordance with Proffer 24.
 - (v) It is demonstrated how the new interim structures and uses meet the requirements of Paragraph 8 of Section 6-505 of the Ordinance.
6. Proposed Development. The maximum gross square footage permitted on the Property is 2,029,000 (the "Proposed Development") with no more than 631,000 gross square feet allocated to office use. The Proposed Development will over time replace the Existing Development. The Proposed Development may include all permitted uses in the PTC District, subject to the use limitations of Section 6-505 of the Ordinance, the development tabulations on Sheet C-3 of the CDP (the "Development Tabulations") and these Proffers. Notwithstanding that shown in the Development Tabulations, the office use permitted for Building E shall be no greater than 212,000 gross square feet with the balance of 419,000 gross square feet of office use to be allocated between Buildings A and F. However, the Applicants reserve the right to transfer office square footage between these buildings with

FDP approval as set forth in Proffer 7 provided the maximum gross square footage allocated for office use on the Property does not exceed 631,000.

Retail uses as identified in the Development Tabulations may include any non-residential use permitted in the PTC District, exclusive of office or hotel uses, or uses accessory to the primary use, subject to the use limitation contained in Paragraph 14 of Section 6-505 of the Ordinance (hereinafter referred to as "Retail Uses"). Retail Uses may include grocery stores provided any particular grocery store does not exceed 27,000 gross square feet. The size and general location of Retail Uses shall be shown on the FDP submitted for each building and shall include uses that create activated first floor store fronts, although Retail Uses may also be located above and/or below the first floor, including opportunities for eating establishments and similar uses on the upper floors of buildings.

Uses allowed by special exception or special permit in the PTC District may be authorized through a separate special exception or special permit process without the need for a PCA or CDPA, provided the use is in substantial conformance with the approved CDP.

7. Final Development Plans. FDPs for the Property shall be in substantial conformance with the CDP and these Proffers. FDPs approved for individual buildings on the Property shall establish the maximum GFA or maximum number of residential units for each building within the limits established by these Proffers and the CDP. The specific GFA and number of dwelling units for each building shall be established at final site plan. If the maximum GFA or maximum number of dwelling units approved with the FDP is less than the maximum for that building as shown on the CDP, the excess GFA or dwelling units may be utilized in another building or building(s) within the Property, provided: (1) the excess GFA or dwelling units can be accommodated within the maximum building height for the building utilizing the excess GFA or dwelling units shown on the CDP; (2) the minimum building height for the building providing the excess GFA or dwelling units as shown on the CDP is maintained; and (3) FDP(s) or FDPA(s) for both of the applicable building(s) transferring and utilizing the excess GFA are approved.

In addition, the following information shall be provided with each FDP not filed concurrently with a CDP.

- A. A tabulation indicating the development status of all land subject to this Rezoning shall be provided with each FDP and site plan submitted for the Property. The tabulation shall include a listing of all proposed and or completed buildings, along with the GFA, uses, final building heights, and parking approved on the CDP, or any FDP or site plan as may be applicable. The tabulation shall identify the allocation of any excess GFA (as compared with what was originally shown on the applicable CDP) and shall be updated with each subsequent FDP and site plan approved for the Property.
- B. Tree Canopy Calculations. A tabulation indicating the tree canopy calculations of all property subject to this rezoning to be updated with each subsequent FDP, FDPA and site plan approved for the Property.

- C. TDM Supplement. A copy of the previous TDM Annual Report, if available, to determine progress toward attaining TDM goals and any planned modifications to the TDM program.
- D. Functional Drawings/Sight Distance. Functional drawings to include proposed right-of-way lines associated with public streets; vehicular sight distance lines at all intersections within, and adjacent to, the FDP area overlaid on the Landscape Plan; and details with respect to utilities and/or vegetation conflicts with building entrances and/or intersections as presented on the CDP.
- E. Utilities. Approximate location of existing and proposed utilities to serve the area of the FDP including the location of the any utility vaults and stormwater management facilities overlaid on the Landscape Plan.
- F. Proposed Uses. A list of proposed uses and demonstration of how such uses meet the applicable "Use Limitations" of Section 6-505 of the Ordinance.
- G. Architectural Elements. Specific information on architectural elements, build-to lines, and building heights as provided in Proffers 11 and 14.
- H. Streetscape. A graphic depiction of, and any adjustments to, the activated streetscape elements as provided in Proffer 10 and refinement of, and adjustments to, streetscape elements as provided in Proffers 23 and 24.
- I. Garage/Loading and Service Area Treatments. Proposed parking garage façade designs and refined loading and service area designs and treatments as provided in Proffers 12 and 13.
- J. Landscaping. Detailed landscape plans as provided in Proffer 22.
- K. Streetscape Furnishings. Submission of a "Streetscape Furnishing and Materials Plan" as provided in Proffer 23.
- L. Phasing. Identification of specific proposed phased improvements in accordance with Proffer 8 and those generally set forth on the phasing-related exhibits provided on the Phasing Sheets.
- M. Parks and Recreation. For on-site parks and active recreation facilities, depiction of special amenity features committed by building as provided in Proffer 52 as well as the height of any fencing proposed around recreational facilities.
- N. Provisions for Bicycles. Bicycle parking and storage as provided in Proffer 37.
- O. Parking Spaces. Refinement of the number of parking spaces as provided in Proffer 39.
- P. Stormwater Management. Identification of the treatment of stormwater as provided in Proffer 57.

- Q. Bus Shelter. Details of the proposed bus shelter location and design as described in Proffer 36.
- R. Workforce Dwelling Units. For residential development, the expected location (on-site or off-site) of workforce dwelling units.
8. Development Phasing. The Proposed Development includes six (6) buildings, which are identified on the CDP as Buildings A through F. Development of each building may proceed in any order provided that each such building provides the phasing conditions depicted for such building on the CDP and that all proffers that apply to such building are addressed with the redevelopment of that building. Where a proffer establishes an obligation that applies to a building, reference to "Applicants" in such proffer shall mean the party undertaking the development of such building.

The Applicants shall construct the grid of streets and provide pedestrian improvements, public parks, private amenities and public facilities on the Property in conjunction with the development of each individual building in accordance with the Phasing Sheets and as further described in these Proffers. In addition, interim improvements as outlined in Proffer 24D and as may be determined at time of FDP approval shall be provided commensurate with the construction of each building. Adjustments to the phasing may be approved with FDP approvals without the requirement for a PCA or CDPA, provided the adjustments do not materially adversely affect the other phases and are in substantial conformance with the CDP. For purposes of these Proffers "construct" shall mean that: 1) a committed road improvement is substantially complete and is available for use by the public for travel whether or not the improvement has been accepted for maintenance by the state, and 2) a committed publicly accessible park space improvement is substantially complete and open to use by the public for use whether or not the improvement has been accepted by the County or FCPA.

9. Fire Marshal Evaluation. The Applicants have coordinated the layouts depicted on the CDP with the Fire Marshal. Further changes to the CDP and future FDPs shall be permitted without the requirement for a CDPA in response to the review of site plans by the Fire Marshal, including adjustments to the streetscape and perimeter building areas as necessary to allow for required emergency vehicle access, provided such modifications are made in consultation with the Fairfax County Department of Planning and Zoning ("DPZ"), the Fairfax County Department of Transportation ("FCDOT") and the Office of Community Revitalization ("OCR") and in substantial conformance with the CDP, future FDPs and these Proffers.

ARCHITECTURAL AND URBAN DESIGN

10. Activated Streetscapes and Ground Floor Elements. The ground floors of all new buildings (excluding new interim buildings) on the Property, but not the parking structures associated with such buildings, shall be designed and constructed with ground floors having a minimum floor to floor height of 16 feet along Leesburg Pike (State Route 7), Station Place, Center Street, Viale Centrale and Tysons Central Street where Retail Uses are proposed to activate the streetscape. In addition, the Applicants shall

- Q. Bus Shelter. Details of the proposed bus shelter location and design as described in Proffer 36.
- R. Workforce Dwelling Units. For residential development, the expected location (on-site or off-site) of workforce dwelling units.
8. Development Phasing. The Proposed Development includes six (6) buildings, which are identified on the CDP as Buildings A through F. Development of each building may proceed in any order provided that each such building provides the phasing conditions depicted for such building on the CDP and that all proffers that apply to such building are addressed with the redevelopment of that building. Where a proffer establishes an obligation that applies to a building, reference to "Applicants" in such proffer shall mean the party undertaking the development of such building.

The Applicants shall construct the grid of streets and provide pedestrian improvements, public parks, private amenities and public facilities on the Property in conjunction with the development of each individual building in accordance with the Phasing Sheets and as further described in these Proffers. In addition, interim improvements as outlined in Proffer 24D and as may be determined at time of FDP approval shall be provided commensurate with the construction of each building. Adjustments to the phasing may be approved with FDP approvals without the requirement for a PCA or CDPA, provided the adjustments do not materially adversely affect the other phases and are in substantial conformance with the CDP. For purposes of these Proffers "construct" shall mean that: 1) a committed road improvement is substantially complete and is available for use by the public for travel whether or not the improvement has been accepted for maintenance by the state, and 2) a committed publicly accessible park space improvement is substantially complete and open to use by the public for use whether or not the improvement has been accepted by the County or FCPA.

9. Fire Marshal Evaluation. The Applicants have coordinated the layouts depicted on the CDP with the Fire Marshal. Further changes to the CDP and future FDPs shall be permitted without the requirement for a CDPA in response to the review of site plans by the Fire Marshal, including adjustments to the streetscape and perimeter building areas as necessary to allow for required emergency vehicle access, provided such modifications are made in consultation with the Fairfax County Department of Planning and Zoning ("DPZ"), the Fairfax County Department of Transportation ("FCDOT") and the Office of Community Revitalization ("OCR") and in substantial conformance with the CDP, future FDPs and these Proffers.

ARCHITECTURAL AND URBAN DESIGN

10. Activated Streetscapes and Ground Floor Elements. The ground floors of all new buildings (excluding new interim buildings) on the Property, but not the parking structures associated with such buildings, shall be designed and constructed with ground floors having a minimum floor to floor height of 16 feet along Leesburg Pike (State Route 7), Station Place, Center Street, Viale Centrale and Tysons Central Street where Retail Uses are proposed to activate the streetscape. In addition, the Applicants shall

provide for a hierarchy of activated streetscapes throughout the Property as delineated on Sheet L-1 of the CDP and described below. The specific activation elements to be utilized for each building shall be graphically depicted on the FDP.

- A. Gateway Pedestrian Corridor. This area located along a high volume boulevard (Leesburg Pike) may have significant pedestrian volumes, but will be generally used for pedestrian movement as opposed to pedestrian interaction. The Gateway Pedestrian Corridor shall generally incorporate the following elements, which may be adjusted with approval of an FDP:
- (i) Where the ground floors of buildings (not including the associated parking garages which are addressed below) incorporate non-residential uses, functioning entry doors into such uses shall be provided with a maximum separation of 100 feet, or greater if shown on an approved FDP or as may be permitted by the Zoning Administrator. A minimum of fifty percent (50%) of the area of the street front ground floor façades (not including the associated parking garages) shall be constructed with glazed windows and doors or other transparent, translucent materials.
 - (ii) Entrances to parking structures shall not be permitted. Where parking structures occur along the ground floor façade of buildings, the general façade detailing of the building above shall be continued to the ground plane or other such architectural features provided.
 - (iii) The loading/trash/service area for Building A shall be screened from public view through the use of doors, recessed entryways, architectural features or other such similar treatments as shown on Sheets A-172 and L-5.2 of the CDP and as described in Proffer 13A. Loading/trash/service doors shall remain closed except when service vehicles are accessing the area.
- B. Primary Pedestrian Corridors. These areas are designed to accommodate major pedestrian activity, providing access to the Metro Station (the "Metro Station") for pedestrians and accommodating access to, and encouraging interaction with, a variety of uses on the Property. Primary Pedestrian Corridors shall generally incorporate the following elements, which may be adjusted with approval of an FDP:
- (i) Where the ground floors of buildings (not including the associated parking garages which are addressed below) incorporate non-residential uses, functioning entry doors into such uses shall be provided with a maximum separation of 75 feet, or greater if shown on an approved FDP or as may be permitted by the Zoning Administrator. A minimum of fifty percent (50%) of the area of the street front ground floor façades of such buildings shall be constructed with glazed windows and doors or other transparent, translucent materials.

- (ii) The ground floor facades of Buildings A and B that front on to the Metro Plaza shall be designed with active uses and architectural treatments to enliven and energize the Metro Plaza. Such ground floor facades shall incorporate Retail Uses, functioning entry doors with a maximum separation of 75 feet and a minimum of fifty percent (50%) glazed windows and doors or other transparent, translucent materials. Back of house operations and storage associated with the Retail Uses shall not front on to the Metro Plaza.
 - (iii) Parking structures along the ground floor facades of buildings shall be minimized to the extent possible. Where parking structures occur along the ground floor façade of buildings, the general façade detailing of the building above shall be continued to the ground plane or other such architectural features provided.
 - (iv) Loading/trash/service areas along other Primary Circulation Corridors shall be minimized to the extent possible. Where these areas occur, they shall be screened from public view through the use of doors, recessed entryways, architectural features or other such similar treatments. Loading/trash/service area doors shall remain closed except when service vehicles are accessing the area.
- C. Secondary Pedestrian Corridors. These areas are designed to accommodate moderate pedestrian activity, providing access to the Metro Station for pedestrians and accommodating access to a variety of uses on the Property. Secondary Pedestrian Corridors shall generally incorporate the following elements, which may be adjusted with approval of an FDP:
- (i) Where the ground floors of buildings (not including the associated parking garages which are addressed below) incorporate non-residential uses, functioning entry doors into such applicable uses shall be provided with a maximum separation of 75 feet, or greater if shown on an approved FDP or as may be permitted by the Zoning Administrator. A minimum of thirty-five percent (35%) of the area of the street front ground floor façades of such buildings shall be constructed with glazed windows and doors or other transparent, translucent materials.
 - (ii) In residential buildings that do not incorporate non-residential uses on part or all of the ground floors, the building design of the primary facades shall incorporate, to the degree feasible, recreational and amenity spaces on the ground floor with a minimum of 35% of the ground floor façade below the ceiling, constructed with windows and/or doors or other transparent materials or semi-transparent materials, and/or incorporate entries in to individual dwelling units from the street level. Residential units that have direct access to the streetscape from an individual unit shall utilize design features to provide interior privacy (such as having a ground floor elevation that is above the sidewalk grade).

- (iii) Parking structures along the ground floor facades shall have screening composed of architectural systems designed to restrict views into the parking structure from street level, or the general façade detailing of the building above may be continued to the ground plane.
 - (iv) Loading/trash/service areas shall be screened from public view through the use of doors, architectural treatments or other such similar treatment. Loading/trash/service area doors shall remain closed except when service vehicles are accessing the area.
- D. Tertiary Pedestrian Corridors. These areas are designed to accommodate modest pedestrian activity making connections to less intense areas or through alleys. Tertiary Pedestrian Corridors, not located along private alleys, shall incorporate the following elements:
- (i) Where the ground floors of buildings (not including the associated parking garages which are addressed below) incorporate non-residential uses, a minimum of twenty percent (25%) of the area of the ground floor façades of such buildings shall be constructed with glazed windows and doors or other transparent, translucent materials or semi-transparent materials.
 - (ii) In residential buildings that do not incorporate Non-Residential Uses on part or all of the ground floors, efforts shall be made to incorporate, recreational and amenity spaces on the ground floor with appropriate transparency and/or incorporate entries into individual dwelling units from the street level. Residential units that have direct access to the streetscape from an individual unit shall utilize design features to provide interior privacy (such as having a ground floor elevation that is above the sidewalk grade).
 - (iii) Parking structures along the ground floor facades shall have screening composed of architectural systems and/or landscaping treatments designed to restrict views into the parking structures from street level, or the general façade detailing of the building above may be continued to the ground plane.
 - (iv) Access to parking garages and loading/trash/service areas are encouraged to be located along Tertiary Pedestrian Corridors. Loading/trash/service areas shall be screened from public view to the extent possible, through the use of doors, recessed entryways and/or similar treatment.

11. Architecture.

- A. The architectural treatment of all buildings within the Proposed Development shall create a sense of identity and place, and shall create human scale at the ground plane through the use of unifying elements such as materials, textures, color, window treatments, decorative details, lighting, and landscaping. Buildings shall be designed with high quality architecture and building materials that are

typically used on the exterior of Class A office buildings and residential, retail and hotel buildings of a similar quality.

- B. Each FDP shall specify the building materials, architecture, and specific features designed to activate streetscapes, as further described below. Architectural plans, elevations, illustrations, materials and heights may be revised subsequent to CDP and FDP approval as a result of final architectural and engineering design, provided the quality of design remains in substantial conformance with that shown on the CDP and subsequent FDPs and as set forth in these Proffers, as determined by the Department of Public Works and Environmental Services ("DPWES") in consultation with DPZ in consultation with OCR without the need for a formal administrative determination.
- C. Build-to-lines ("BTL") have been established as depicted on the CDP, to create an urban, pedestrian-oriented environment where buildings are located close to the street and pedestrian/streetscape areas are located between the buildings and the streets. In general, building facades are intended to be configured in such a way as to provide a continuous street wall along this line, but modifications to either side of the BTL shall be permitted provided such are in general conformance with the CDP and are shown on an approved FDP. Awnings and other architectural canopies attached to the building frontage shall not extend beyond the building zone, except as may be shown on an approved FDP. At the time of FDP and/or site plan approval, the Applicant shall identify possible locations along the street level for expanded areas for outdoor dining adjacent to cafes and restaurants and shall provide appropriate building zones for such uses, so that outdoor dining areas do not encroach into the sidewalk area.
12. Parking Structure Facades. To further the goals of the Comprehensive Plan, above grade parking structures shall incorporate uses or screening at the ground level in keeping with Proffer 10, so as to provide a pleasant and attractive design/experience along the streetscape. In addition, one or more of the following techniques shall be employed to screen garage areas above the street level:
- A. Inclusion of an active layer of occupied space;
 - B. Continuation of the general façade detailing of the tower above;
 - C. Extension of retail signage and architectural expressions above the retail level to provide a variety of storefront experiences, as may be permitted by the Ordinance or by an approved Comprehensive Sign Plan; or
 - D. For up to the first six levels of above grade parking, application of architectural screening materials that may include, but not be limited to, metal framing systems with inserted panels of wire mesh, metal, glass or other materials, and precast concrete or masonry spandrels designed to minimize views into the garage spaces from street level. Any additional levels of above-grade parking (greater than the first six levels) shall be integrated into the architecture of the tower above.

Parking structure design features and materials shall be depicted on the FDP for review and approval.

13. Building A Loading/Trash/Service Area. Particular care shall be taken to mitigate the view of the loading/trash/service area serving Building A along Leesburg Pike and ensure that the loading area can accommodate safe and convenient pedestrian passage. The architectural treatment and integration of the loading door shall be in general conformance with the character shown on Sheet A-172, or as may be refined at the time of FDP approval.
 - A. At the time of FDP submission for Building A, the Applicants shall provide detailed designs for the loading door treatment and demonstrate the door's integration with the first floor and general façade architectural detailing of the building in keeping with the design character shown on Sheet A-172. The width of the door for the loading trash /service area shall not exceed 36 feet. Based on the proposed uses of Building A known at the time of FDP submission, the Applicants shall make efforts to minimize the width of the loading door and/or reduce the number of loading spaces to the extent feasible, without the need for a PCA or CDPA. The FDP landscape plan shall seek to provide landscape screening of the loading area from Leesburg Pike through a combination of a low decorative wall, trees and plantings and/or similar treatments in keeping with the design character shown on Sheet L-5.2, subject to VDOT approval. The FDP shall also include details of the streetscape treatment (paving patterns, bollards, signage) designed to provide visual cues to the pedestrian of the potential loading activity.
 - B. Prior to the issuance of the first Non-RUP for Building A, the Applicants shall appoint, and continuously employ, a dockmaster to oversee the management of loading operations for Buildings A, B and C. It shall be the dockmaster's responsibility to: 1) minimize loading conflicts with pedestrian movements; 2) ensure scheduled deliveries avoid peak traffic times such as 7:30 a.m. to 9:30 a.m. and 4:00 p.m. to 7:00 p.m. weekdays; 3) ensure that the loading door remains closed except for the movement of trucks in and out of the loading/trash/service areas; and 4) keep the loading/trash/service areas clean and well maintained at all times. Delivery restrictions, including limitations on the hours of delivery, may be modified at the time of FDP approval without the need for a PCA or CDPA.
 - C. The Applicants shall install a sign prohibiting right turn movements from the service lane accessing the loading dock on to Viale Centrale.
14. Building Height. The minimum and maximum building height for each building on the Property shall be measured in accordance with the provisions of the Ordinance and as identified in the Development Tabulations. The final height of buildings shall be determined at the time of site plan approval for each building and shall be equal to or less than the maximum height but equal to or greater than the minimum height shown on the CDP.

Building heights shown in the Development Tabulations are exclusive of penthouses and other rooftop structures that are typically excluded from the maximum height regulations as set forth in Section 2-506 of the Ordinance. Structures that are excluded from the maximum height regulations as set forth in Sect. 2-506 may be constructed to a height not to exceed twenty-five (25) feet from the roof level of the top floor of the building. All building penthouses and rooftop structures shall be integrated into or compatible with the architecture of the building. The height and extent of any roof top penthouse shall be provided in the FDP, as well as any rooftop parapet, wall, or fencing in excess of that permitted by the Zoning Ordinance. Additional height may be permitted to accommodate features associated with sustainable design and green building practices, such as wind turbines or solar panels, etc., with FDP approval.

15. Telecommunications Equipment. Telecommunications equipment may be placed on the proposed residential and non-residential buildings' rooftops. Any such facilities must comply with the applicable requirements of the Ordinance and be screened and/or setback sufficiently from the perimeter of the roof and penthouse such that they are not visible from the streets, forming the boundary of the Property, at street level. Other screening measures may be used such as including the facilities as part of the architecture of the buildings, utilizing compatible colors, or employing telecommunication screening material and flush mounted antennas. Telecommunications equipment may also be architecturally integrated onto the facades of the buildings where necessary to ensure on-street and/or open space coverage.

BUILDING PRACTICES

16. Residential Building Certifications.

- A. The Applicants shall include, as part of the building plan submission for any residential building to be constructed on the Property, a list of specific credits within the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design New Construction (LEED®-NC) rating system at the time of the project's registration, or other LEED rating system determined to be applicable by the U.S. Green Building Council (USGBC), or its equivalent (as determined jointly by the Applicants and Fairfax County), that the Applicants anticipate attaining.

Except as otherwise provided below in Paragraph E as an alternative, a LEED or equivalent-accredited professional (the "LEED-AP") who is also a professional engineer or architect or is a third party LEED consultant shall provide certification statements at the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED-NC certification of the building.

- B. The Applicants shall designate the Chief of the Environment and Development Review Branch ("EDRB") of the Department of Planning and Zoning ("DPZ") as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all

documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

- C. Prior to the issuance of a building permit for the building to be constructed, the Applicants shall post a "green building escrow" in the form of cash or a letter(s) of credit from a financial institution acceptable to DPWES as defined in the Public Facilities Manual ("PFM"), in the amount of \$2.00/square foot of GFA, as shown on the site plan. This green building escrow shall be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED-NC certification, by the USGBC, under the project's registered version of the LEED-NC rating system or other LEED rating system determined, by the USGBC, to be applicable to each building. The submission to EDRB of documentation from the USGBC that each building has attained LEED-NC certification will be sufficient to satisfy this commitment.
- D. At the time LEED-NC certification is demonstrated to EDRB, the escrowed funds and/or letter(s) of credit shall be released to the Applicants.

If the Applicants provide to EDRB, within three (3) years of issuance of the final RUP for the building, documentation demonstrating that LEED-NC certification for the building has not been attained but that the building has been determined by the USGBC to fall within three (3) points or less of attainment of LEED-NC certification, 50% of the green building escrow will be released to the Applicants; the other 50% will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of county environmental initiatives.

If the Applicants fail to provide, within three (3) years of issuance of the final RUP for the building, documentation to EDRB demonstrating attainment of LEED-NC certification or demonstrating that the building has fallen short of LEED-NC certification by greater than three (3) points, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives.

If the Applicants provide documentation from the USGBC demonstrating, to the satisfaction of EDRB, that USGBC completion of the review of the LEED-NC certification application has been delayed through no fault of the Applicants, the Applicants' contractors or subcontractors, the proffered time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicants or to the County during the extension.

- E. As an alternative to the actions outlined in the Paragraphs A, C and D above, the Applicants may choose at its sole discretion to pursue a certification higher than LEED-NC, in which case the LEED-AP will provide certification statements at

the time of building plan review confirming that the items on the list of specific credits will meet at least the minimum number of credits necessary to attain LEED-NC Silver certification.

Prior to the issuance of a building permit for the building to be constructed, the Applicants shall submit documentation, to EDRB, regarding the USGBC's preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED-NC Silver certification. Under this alternative, the Applicants are not required to provide a "green building escrow" unless the Applicants fail to provide the above referenced documentation that the building is anticipated to attain LEED-NC Silver certification.

Prior to final bond release of each building, the Applicant shall submit documentation to EDRB confirming the status of LEED certification.

- F. As an alternative to the actions outlined in the Paragraphs A, C, D and E above the Applicants may select, subject to EDRB approval, an alternate residential rating system such as Earth Craft, Energy Star Qualified Homes for Multifamily High Rise, or the 2012 National Green Building Standard ("NGBS") using the ENERGY STAR Qualified Homes path for energy performance that may be implemented without an escrow. If one of the alternate residential rating systems listed herein is selected, the Applicants shall demonstrate attainment of the selected certification from a rater recognized through the selected program prior to the issuance of the final RUP for the building. In the event certification is dependent on the post occupancy operation of the building, the Applicants shall demonstrate attainment of the selected certification prior to final bond release.

17. Non-Residential Building Certifications.

- A. The Applicants shall include, as part of the building plan submission for any office or hotel building to be constructed on the Property, a list of specific credits within the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design Core and Shell (LEED®-CS) rating system at the time of the project's registration, or other LEED rating system determined to be applicable by the U.S. Green Building Council (USGBC), or its equivalent (as determined jointly by the Applicants and Fairfax County), that the Applicants anticipate attaining.

Except as otherwise provided below in Paragraph E as an alternative, the LEED-AP) shall provide certification statements at the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED-CS Silver certification of the building.

- B. The Applicants shall designate the Chief of EDRB as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.
- C. Prior to the issuance of a building permit for the building to be constructed, the Applicants shall post a "green building escrow" in the form of cash or a letter(s) of credit from a financial institution acceptable to DPWES as defined in the PFM, in the amount of \$2.00/square foot of GFA, as shown on the site plan. This green building escrow shall be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED-CS Silver certification, by the USGBC, under the project's registered version of the LEED-CS rating system or other LEED rating system determined, by the USGBC, to be applicable to each building. The submission to EDRB of documentation from the USGBC that each building has attained LEED-CS Silver certification will be sufficient to satisfy this commitment.
- D. At the time LEED-CS Silver certification is demonstrated to EDRB, the escrowed funds and/or letter(s) of credit shall be released to the Applicants.

If the Applicants provide to EDRB, within three (3) years of issuance of the final Non-RUP for the building, documentation demonstrating that LEED-NC certification for the building has not been attained but that the building has been determined by the USGBC to fall within three (3) points or less of attainment of LEED-CS Silver certification, 50% of the green building escrow will be released to the Applicants; the other 50% will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of county environmental initiatives.

If the Applicants fail to provide, within three (3) years of issuance of the final Non-RUP for the building, documentation EDRB demonstrating attainment of LEED-Silver certification or demonstrating that the building has fallen short of LEED-CS Silver certification by greater than three (3) points, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives.

If the Applicants provide documentation from the USGBC demonstrating, to the satisfaction of EDRB, that USGBC completion of the review of the LEED-Silver certification application has been delayed through no fault of the Applicants, the Applicants' contractors or subcontractors, the proffered time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicants or to the County during the extension.

- E. As an alternative to the actions outlined in the Paragraphs A, C and D above, the Applicants may choose at its sole discretion to pursue a certification higher than LEED-CS Silver, in which case the LEED-AP will provide certification statements at the time of building plan review confirming that the items on the list of specific credits will meet at least the minimum number of credits necessary to attain LEED-CS Gold certification.

Prior to the issuance of a building permit for the building to be constructed, the Applicants shall submit documentation, to EDRB, regarding the USGBC's preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED-CS Gold certification. Under this alternative, the Applicants are not required to provide a "green building escrow" unless the Applicants fail to provide the above referenced documentation that the building is anticipated to attain LEED-CS Gold certification.

Prior to final bond release of each building, the Applicant shall submit documentation to EDRB, confirming the status of LEED certification.

18. Energy Sustainability. To promote efficient, renewable and sustainable energy practices, the Applicants shall provide the following:
- A. Electric Vehicle Charging Infrastructure. A minimum of one (1) electric vehicle recharging station that serves two (2) parking spaces and conduit to facilitate two (2) additional future recharging stations in the parking garage for each building.
 - B. Shared Energy. For any site plan that includes more than one building, provide an assessment of the potential, within the area subject to the site plan, of shared energy systems, including but not limited to combined heat and power (CHP) (co-generation), micro-CHP, distributed energy resources, and district heating and/or cooling, and, if a shared energy strategy will not be pursued, provide a narrative discussion regarding the reason(s) for this outcome. At a minimum, the Applicants shall ensure that a utility sleeve through the foundations of the proposed buildings, are sized to accommodate a pipe/facility, a maximum of 12 inches in diameter, allowing potential future energy sharing or alternate energy sources.
 - C. Energy and Water Data. To the extent there are master electric, gas and water meters for entire buildings, upon request by the County the Applicants shall provide to the County aggregated non-proprietary energy and water consumption data, as practicable, for each building and the entire Property.
19. Noise Attenuation. The Applicants have submitted to Fairfax County a Traffic Noise Impact Analysis for Building F prepared by Polysonics Acoustics and Technology Consulting, dated September 20, 2013. The analysis indicates that projected traffic noise

will be greater than a day-night averaged noise level ("Ldn") of 65 decibels ("dBA") for some dwelling units but that no dwelling units in Building F will be impacted by Ldn as high as 70 dBA. In addition the analysis shows that none of the buildings on the Property will be impacted by Ldn as high as 70 dBA.

- A. At building plan submission for Building F, the Applicants shall submit a refined acoustical study prepared by a qualified acoustical consultant (the "Refined Acoustical Analysis") addressing indoor noise levels and proposing noise attenuation measures to reduce interior Ldn to no more 45 dBA for the residential component of Building F. The Applicants shall submit the Refined Acoustical Analysis to the Chief of EDRB for approval and shall additionally notify the Chief of EDRB by letter that such submission has been made. Failure by the Chief of EDRB to review and respond to the Applicants within 60 days of receipt of a Refined Acoustical Analysis shall be deemed approval of such analysis.
- B. Prior to FDP approval for Buildings A, B, C, D and E, the Applicants shall provide an indoor noise impact analysis to determine if those specific buildings will be affected by transportation generated noise. If the specific noise impact analysis concludes that a building will be affected by noise levels that require mitigation, then at building plan submission for the applicable building, the Applicants shall submit a Refined Acoustical Analysis addressing indoor noise levels and proposing noise attenuation measures to reduce interior Ldn to no more than 45 dBA for the residential or hotel component of any buildings and no more than 50 dBA for any office components. The Refined Acoustical Analysis shall be prepared in accordance with County specified acoustical study guidelines. The Applicants shall submit the Refined Acoustical Analysis to the Chief of EDRB for approval and shall additionally notify the Chief of EDRB by letter that such submission has been made. Failure by the Chief of EDRB to review and respond to the Applicants within 60 days of receipt of a Refined Acoustical Analysis shall be deemed approval of such study.
- C. Based on the findings of the Refined Acoustical Analyses, the Applicants shall provide the following noise attenuation measures, unless otherwise modified by the findings of the Refined Acoustical Analyses.
 - (i) In order to reduce interior noise to a level of approximately 45 dBA Ldn, dwelling units anticipated by the Refined Acoustical Analyses to be impacted by traffic noise having levels projected to be between 65 and 70 dBA Ldn shall be constructed with the following acoustical measures:
 - a. Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.
 - b. Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any residential façade exposed to noise levels of 65 to 70 dBA Ldn. If glazing constitutes more than 20% of an exposed residential façade, then the glazing

- shall have a STC rating of up to 39 as dictated by the percent of glass.
- c. All surfaces shall be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials ("ASTM") to minimize sound transmission.
- (ii) In order to reduce interior noise to a level of approximately 45 dBA Ldn, dwelling units anticipated by the study to be impacted by traffic noise through windows and walls having levels projected to be between 70 and 75 dBA Ldn shall employ the following acoustical measures:
- a. Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45.
- b. Doors and glazing shall have a laboratory STC rating of at least 37 unless glazing constitutes more than 20% of any residential façade exposed to noise levels of up to 75 dBA Ldn. If glazing constitutes more than 20% of an exposed residential façade, then the glazing shall have a STC rating of up to 45 as dictated by the percent of glass.
- c. All surfaces shall be sealed and caulked in accordance with methods approved by ASTM to minimize sound transmission.
- (iii) In order to reduce interior noise to a level of approximately of 50 dBA Ldn, office units anticipated by the Refined Acoustical Analyses to be impacted by traffic noise levels projected to be between 70 and 75 dBA Ldn shall be constructed with the following acoustical measures:
- a. Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.
- b. Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any façade exposed to noise levels of 70 to 75 dBA Ldn. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of up to 39 as dictated by the percent of glass.
- c. All surfaces shall be sealed and caulked in accordance with methods approved by the ASTM to minimize sound transmission.
- (iv) In order to reduce exterior noise to a level that is approximately 65 dBA Ldn for the outdoor recreational plaza on the southwest corner of Building F (not the tower rooftop level), such plaza shall be shielded from noise impacts from Route 7 by the construction of a parapet wall extending upward a minimum of three (3) feet and a maximum of five (5) feet from the plaza level.

20. Notification of Exterior Noise Levels. The Applicants shall notify potential tenants or purchasers of individual residential units with balconies and/or other outdoor amenities, either in the lease or sales contract, that exterior noise levels may exceed 65 dBA, which is the policy established by Fairfax County for outdoor recreation in residential areas impacted by high noise levels.
21. Bird-Friendly Design Elements. In an effort to reduce bird injury and death due to in-flight collisions with buildings, the Applicant shall include one or more bird friendly design elements, as determined by the Applicant, in the architectural plans of each building on the Subject Property. The bird friendly design elements may include, but not be limited to, the use of color, texture, opacity, fritting, frosting, patterns, louvers, screens, interior window treatments, or ultraviolet materials that are visible to birds, the angling of outside lights, curbing of excessive or unnecessary night-time illumination in commercial buildings, reduction of bird attracting vegetation, the use of decoys, and breaking of glass swaths. Nothing herein shall require the Applicant to obtain a bird-friendly LEED credit. Upon the issuance of a building permit for each building, the provisions of this Proffer shall be deemed satisfied as to such building.

SITE DESIGN AND AMENITIES

22. Conceptual Landscape Plan. The CDP includes a conceptual landscape plan for the Property consisting of an overall plan and details regarding streetscapes, plazas, publicly accessible park areas, courtyards and private amenity areas. As part of subsequent FDP approvals, more detailed landscape plans for each building phase shall be provided in general conformance with the concepts included on Sheets L-2.1, L-2.2, and L-5.1 through L-8.2 with adjustments permitted so long as the quality of the landscaping remains consistent with that shown on the CDP.

As part of the site plan submission for each building phase, the Applicants shall submit to the Urban Forest Management Division of the DPWES ("UFMD") for review and approval a detailed landscape plan that is in substantial conformance with the quantity and quality of plantings and materials landscaping shown on the approved FDP, and shall include, among other things, irrigation information, design details for tree wells and other similar planting areas on structures and along streets. These details shall include the composition of planting materials, methods for providing suspended pavement over tree root zones to prevent soil compaction, and methods for ensuring the viability of plantings on structures. Adjustments to the type and location of plantings shall be permitted to avoid conflicts with utilities and other site engineering considerations.

23. Streetscaping. Streetscaping shall be installed throughout the Property as conceptually illustrated on Sheets L-5.1, L-5.2, L-7.1 and L-8.2. Streetscape elements shall include: a landscape amenity panel located immediately behind the back of curb; a clear pedestrian sidewalk adjacent to the landscape amenity panel; and a building zone between the pedestrian sidewalk and the face of the building that is designed to allow access to the building and/or additional landscaping adjacent to residential uses and also storefront browsing, outdoor display, outdoor dining, and similar uses adjacent to Retail Uses. Outdoor display and dining areas shall be permitted within the building zone, but not

within the clear pedestrian sidewalk. Streetscaping elements may be adjusted at the time of FDP approval provided the quality and character of the streetscape is consistent with that shown on the CDP.

- A. Street Trees. Tree planting sites are set forth on the CDP, subject to revision as may be approved on the FDP or at site plan review by the UFMD and the Fire Marshal. The Applicants shall retain the services of a certified arborist or Registered Consulting Arborist to monitor the design and inspect the planting of the street trees and shall notify UFMD in writing or by electronic mail no later than three business days prior to tree pit construction to allow for County inspection. Where minimum planting widths of 8 feet are not provided, structural cell technology, or other measures acceptable to UFMD, shall be used to satisfy the following specifications for all planting sites:
- (i) A minimum of 4 feet open surface width and 16 square feet open surface area for Category III and Category IV trees, with the tree located in the center of the open area;
 - (ii) A minimum rooting area of 8 feet wide (may be achieved with techniques to provide un-compacted soil below hardscape elements), with no barrier to root growth within four feet of the base of the tree;
 - (iii) A minimum soil depth of four (4) feet as measured to the shallow most point of the tree pit as shown in the tree planting details found on Sheet L-7.1 and L-7.2 of the CDP;
 - (iv) Soil volume for Category III and Category IV trees (as defined in Table 12.19 of the PFM) shall be 700 cubic feet per tree for single trees, but may be reduced to a minimum of 400 cubic feet where necessary, such as where paving above rooting zones is necessary to accommodate pedestrian traffic or where utility locations preclude greater soil volume. For two trees planted in a contiguous planting area, a total soil volume of at least 600 cubic feet per tree shall be provided. For three or more trees planted in a contiguous area, the soil volume shall equal at least 500 cubic feet per tree. A contiguous area shall be any area that provides root access and soil conditions favorable for root growth throughout the entire area;
 - (v) Soil specifications in planting sites shall be provided in the planting notes to be included in all site plan submissions;
 - (vi) All shade trees shall be a minimum of 3 to 3.5 inches in caliper at the time of planting; all flowering trees shall be a minimum of 2 inch caliper at the time of planting; and all new evergreen trees shall be a minimum of eight (8) feet in height at the time of planting;
 - (vii) It is expected that some street trees may have to be planted within existing utility easements and that the Applicants shall replace any street trees that are removed to facilitate repairs of utilities in these easements; and

(viii) It is expected that some street tree planting sites will be designed to accommodate bio-retention functions.

- B. Non-Invasive Plant Materials. Invasive species, as defined by the PFM, shall not be used within the streetscape and landscaped open space areas.
- C. Utility Locations. Utilities, including, but not limited to water, sanitary sewer and storm sewer utility lines, shall be installed within the street network to the maximum extent feasible as determined by DPWES or shall be placed in locations that do not conflict with the landscaped open space areas and streetscape elements shown on the CDP and/or subsequent FDP as determined by DPWES. If there is no other option, utilities may be placed within open space or streetscape areas provided that the long-term health of trees and other plantings is ensured by the provision of sufficient soil volume as shown on the CDP, as determined by the UFMD. A conceptual utility plan shall be overlaid on the landscape plan submitted in the FDP. Adjustments to the type and location of plantings shall be permitted to avoid conflicts with utilities and other site engineering considerations. If at the time of site plan approval, street trees shown on the FDP are in conflict with existing or proposed utilities and alternative locations for the street trees satisfactory to UFMD cannot be accommodated, the Applicants shall modify the location of utilities to ensure that the trees shown on the FDP can be provided.

Maintenance access points to SWM Facilities and electric vaults beneath the streetscape shall be located outside clear pedestrian walkway zone of the streetscape to the extent feasible. These maintenance access points shall be shown on each site plan. If the access points must be located in the walkway zone, they shall be designed as a lift out panel with the same paving materials as the walkway (subject to ADA requirements), be flush with the walkway, and meet ADA accessibility requirements.

- D. Sight Distance Considerations. Sight distance requirements shall be provided with the landscape plan submitted with each FDP, so as to identify and avoid conflicts with street tree locations. If at the time of site plan approval that street tree locations approved on the FDP are determined to conflict with sight distance requirements, the Applicants shall make efforts to gain approval of said trees by UFMD by making minor adjustments to their locations or by removing their lower branches. In the event VDOT does not approve the tree locations even after the changes anticipated above, the Applicants shall be permitted to relocate the affected street tree and any associated stormwater management facilities without the need for confirmation from DPZ, subject to approval by UFMD. If the deleted street tree(s) result in a tree canopy below 10% on the Property, the street tree(s) must be accommodated in another location on the Property, as approved by DPZ in consultation with UFMD.
- E. Streetscape Furnishings and Materials and Lighting. Unified and high quality streetscape materials shall be provided and may include, but not be limited to, unit

pavers, seat walls, tree space edging, lighting, traffic signal poles, benches, trash receptacles and other hardscape elements. A Streetscape Furnishing and Materials Plan shall be provided as part of all FDPs. These plans shall include general product information and approximate locations of furnishings and materials to be located in the streetscape between the building face and the curb, and in other public realm open spaces. Materials, furnishings, and lighting shall be compatible with those already identified in the Tysons Corner Urban Design Guidelines for the Tysons West area, endorsed by the Board of Supervisors on January 24, 2012, as may be amended and or modified and shall be coordinated with any streetscape design efforts put forth by the Tysons Partnership, but shall not be subject to approval by Tysons Partnership.

All streetscape lighting shall be energy efficient. All on-site, outdoor and parking garage lighting shall not exceed that permitted under the Outdoor Lighting Standards of Section 14-900 of the Ordinance. All parking lot and building mounted security lighting shall utilize full cut-off fixtures. Recessed lighting shall be directionally shielded to mitigate the impact on the adjacent residences.

- F. Signage and Wayfinding. Signage for the Property shall be provided in accordance with the requirements of Article 12 of the Ordinance. Alternatively, the Applicants may seek approval of a Comprehensive Sign Plan (“CSP”). The placement of traffic control signage on public streets shall be coordinated with VDOT. All signage on public streets is subject to VDOT approval. Wayfinding signage and elements may be provided as part of a larger CSP for the Tysons area. Such wayfinding signage shall be coordinated with the Tysons Partnership so to facilitate a consistent wayfinding and signage system throughout the district, but shall not be subject to approval by Tysons Partnership. Wayfinding shall provide direction to locations of prominent attractions, parks, cultural arts destinations, and other public amenities.
- G. Maintenance. The Applicants shall maintain and replace in-kind all pedestrian realm elements within the Proposed Development. The pedestrian realm includes all areas between the back of curb and the building zone whether located within the public right-of-way or on private land with public access easements. The Applicants shall be responsible for obtaining all required VDOT permits and shall enter into the appropriate agreement, in a form approved by the Office of the County Attorney, with the County (or other public entity, as needed) to permit the Applicants to perform such maintenance within publically owned portions of the pedestrian realm. The Applicants shall not be required to repair or restore any elements of the pedestrian realm within publicly-owned areas that are damaged by contractors or permittees that are not acting under the direct authority of the Applicants or the building owner. An alternative maintenance agreement, such as a Business Improvement District, may be entered into upon written agreement of both the County and the Applicants without the requirement for a CDPA/FDPA/PCA. Maintenance commitments include, but are not limited to:
- (i) All plantings including trees, shrubs, perennials, and annuals;

- (ii) All associated irrigation elements;
- (iii) All hard surfaces;
- (iv) All streetscape furnishings including benches, trash and recycling containers, bike racks and non-standard structures;
- (v) All lighting poles, brackets and fixtures;
- (vi) All non-VDOT standard sign posts, traffic signal poles, pedestrian signal poles, mast arms, signal heads and control boxes;
- (vii) Snow removal;
- (viii) Leaf removal;
- (ix) Trash, recycling and litter removal;
- (x) Decorative retaining walls;
- (xi) Special drainage features, such a Low Impact Design facilities; and
- (xii) All urban park amenities including horticultural care, maintenance of all water features, irrigation, lighting, furnishings, paving, and art.

As determined at the time of FDP approval, where the final streetscape design cannot be fully implemented during certain phases of development the Applicant shall provide interim streetscape improvements as described herein.

- H. Phasing. Streetscape improvements shall be provided commensurate with development of the individual buildings as shown on the Phasing Sheets. As determined at the time of FDP approval, where the final streetscape design cannot be fully implemented during certain phases of development, the Applicants shall provide interim streetscape improvements as described in Proffer 24D.
24. Interim Conditions and Standards. Due to the size of the Proposed Development and the time anticipated for its build-out, phased redevelopment may result in various interim conditions on the Property. At the time of FDP approval, the Applicants shall identify the specific proposed interim conditions within the FDP area and outside the FDP area and shall ensure such conditions provide reasonable pedestrian connections, vehicular circulation, temporary streetscaping and landscaping, public park treatments, and screening/treatment of exposed/partially complete above grade parking structures.
- A. If an interim condition/phase includes partial demolition of an existing structure, the FDP for that phase shall include all or a portion of the existing structure as necessary to ensure revisions to parking and on-site circulation for the existing structure are adequate.

- B. If interim improvements not located on the Property are contemplated with any FDP, such FDP shall specify how and when such improvements are to be constructed. If the Applicants, after good faith efforts, are unable to acquire the necessary rights to construct the off-site interim improvements and condemnation of easements or rights-of-way becomes necessary, the Applicants shall request in writing that Fairfax County acquire the easements or rights-of-way by means of its condemnation powers as described in Proffer 61. At the time of FDP approval, it shall also be determined what course of action shall be required of the Applicants should the County elect not to use, or is unsuccessful in its attempt to use, its condemnation powers.
- C. If an interim condition/phase results in street frontage or access insufficient to support planned ground floor Retail Uses, such ground floor areas may be utilized for other non-residential uses or temporary residential leasing offices/amenity spaces until such times as the street frontage or access necessary to support Retail Uses is complete. Temporarily vacant first floor store fronts shall be animated with window dressings, displays, exhibits or similar visually interesting uses to minimize the appearance of vacancy, provided said window displays and/or exhibits shall not interfere with leasing efforts and are in compliance with Article 12 of the Ordinance or an approved Comprehensive Sign Plan.
- D. Interim conditions shall comply with the following general standards provided that the improvements are acceptable to Fairfax County, VDOT, and all other utility companies as may be appropriate:
- (i) Construction of interim sidewalks a minimum of a five (5) feet in width and installation of interim street lights along the interim sidewalks, as needed to ensure a safe, convenient pedestrian paths.
 - (ii) Installation of street trees, with a minimum size of 2 inch caliper, approximately every 50 feet, to the extent feasible as determined by UFMD based on existing conditions and utility easements. Interim street tree planting shall not be required to meet the minimum planting width/area standard for permanent street trees.
 - (iii) Provision of interim designs for publicly accessible open spaces will include interim landscaping, pedestrian pathways, seating, signage, lighting and recreational facilities as determined at FDP.
 - (iv) Provision of peripheral and interior parking lot landscaping in accordance with Article 13-203 of the Ordinance for new surface parking lots used for interim commercial off-street parking. For interim commercial off-street parking in existing surface lots, peripheral and interior parking lot landscaping in accordance with Article 13-203 of the Ordinance shall be provided to the degree practicable provided existing parking spaces are not reduced.

- (v) Application of a screening system (which may be removable) where above grade garage structures that will be interior when later phases are complete are exposed at phase lines. This screening system shall be applied to all levels above grade and shall be composed of an architecturally designed system that may reflect basic architectural lines of the permanent facades, and that shall partially obscure the garage view from outside the garage until the next phase is constructed. The use of temporary art works as a part of the screening system shall also be considered as part of the interim screening system. The specific screening system to be utilized for each building shall be determined at the time of FDP approval and graphically depicted on the FDP. Alternate temporary garage screening may be approved with FDP approval.
- (vi) Grading and seeding of areas on the Property where existing improvements are removed to accommodate a portion of the Proposed Development, and are not scheduled to commence construction within 18 months.
- (vii) Where appropriate, provision of attractive temporary construction fencing, which may include public art, signage or wayfinding elements. Signage shall be in keeping with Article 12 of the Ordinance or alternatively in accordance with an approved Comprehensive Sign Plan.

TRANSPORTATION IMPROVEMENTS

25. Grid of Streets. The Applicants shall construct and place into operation a new grid of streets throughout the Property including portions of streets identified on the CDP as Center Street, Station Place, Viale Centrale and Tysons Central Street and shall make improvements to existing public streets identified as Leesburg Pike and Tysons Central Street. For the purposes of these Proffers, Leesburg Pike and Center Street shall be considered to run east to west, and Stations Place and Viale Centrale shall be considered to run north to south. The functional classification of the streets is provided below:

Street	Classification
Leesburg Pike (State Route 7)	Boulevard
Center Street	Collector
Station Place	Collector
Viale Centrale	Local (private)
Tysons Central Street	Local (a portion of which is private)
Private Access Streets	Service Alley (private)

- A. Public Streets. Those streets constructed adjacent to and within the limits of the Property and identified on the CDP as Leesburg Pike, Center Street, Station Place and portions of Tysons Central Street shall be designed and constructed as public streets. Public street improvements proposed herein shall be subject to VDOT approval and be in general conformance with the *Transportation Design Standards for Tysons Corner Urban Center* (the "Design Standards") of the

Memorandum of Agreement approved by the Board of Supervisors on September 13, 2011, as may be amended (the "MOA"), subject to modifications/waivers as may be granted. The Applicants shall design and construct these streets to meet the Design Standards. The Applicants shall work diligently with VDOT and the County during the FDP and site plan approval processes to ensure that the improvements proposed to existing and new public streets will be accepted into the VDOT system for maintenance.

The Applicants shall diligently pursue VDOT acceptance of improvements to existing streets and new public streets, for secondary street maintenance in accordance with the process outlined in VDOT's Secondary Street Acceptance Requirements (the "SSAR"), as amended, including VDOT's written certification that such streets and/or improvements have been constructed in a manner consistent with the VDOT approved plans and compliant with all applicable regulations ("VDOT's Written Certification"). In the event the Board of Supervisors has not requested that VDOT accept the dedicated new public streets or improvements into the secondary street network for maintenance within five (5) years of VDOT's Written Certification, such street(s) may be retained by the Applicants upon notification to, and the concurrence of FCDOT, as a private street subject to a public access and maintenance agreement in a form acceptable to the County Attorney. In such event, a PCA, CDPA and/or FDPA will not be required

- B. Right-of-Way. The Applicants shall dedicate and convey in fee simple to the Board of Supervisors rights-of-way for each of the public streets listed in Paragraph A above. Dedication shall include the area of the landscape amenity panel and sidewalk and shall occur at the time of site plan approval, with the following exceptions:
- (i) If at the time of site plan approval it is determined that electric vaults or other similar facilities proposed to be located beneath the landscape amenity panel/sidewalk prevent VDOT and/or Fairfax County from accepting the landscape amenity panel/sidewalk within the right-of-way, the Applicants shall provide dedication from 18 inches back of curb to 18 inches back of curb for the street section and shall grant a public sidewalk and utility easement in a form acceptable to the Office of the County Attorney, over the area of the amenity panel/sidewalk. This easement shall allow for the installation of signage necessary for safety and operation of the street as well as parking regulation equipment by VDOT and/or the County. In addition, the Applicants shall provide easements within the amenity panel/sidewalk area for bus shelters as determined at the time of FDP or site plan.
 - (ii) If at the time of site plan approval it is unclear whether stormwater management facilities, electric vaults or other similar facilities proposed to be located beneath the landscape amenity panel/sidewalk will be acceptable to VDOT and/or Fairfax County, the Applicants shall provide

dedication from 18 inches back of curb to 18 inches back of curb for the street section at the time of site plan approval and shall reserve for potential future dedication the landscape amenity panel and sidewalk areas. A temporary public access easement in a form acceptable to the County Attorney shall be recorded over the reserved landscape amenity panel/sidewalk areas until such time as such areas are dedicated in fee simple. Conveyance of the amenity panel/sidewalk areas to the Board of Supervisors shall occur following construction of the street and streetscape improvements and final street acceptance inspection by Fairfax County and/or VDOT subject to the stipulations in these Proffers.

- (iii) Should it be determined at final street acceptance inspection that the landscape amenity panel and sidewalk areas are not acceptable to VDOT and/or the County to be included in the right-of-way, the reservation of potential future dedication of the landscape amenity panel and sidewalk areas shall be released and a public sidewalk and utility easement, in a form acceptable to the County Attorney, shall be granted in its place. This easement shall allow for the installation of signage necessary for safety and operation of the street as well as parking regulation equipment by VDOT and/or the County. In addition, the Applicants shall provide easements within any privately-owned amenity panel for bus shelters identified on the CDP or any subsequent FDP, as determined at the time of site plan.
- C. Private Streets and Alleys. The Applicants shall construct and maintain Viale Centrale, Tysons Central Street, and access streets as private streets (the "Private Streets") as shown on the CDP to the standards contained in the PFM. Public access easements in a form acceptable to the Office of the County Attorney shall be granted for the Private Streets and appurtenant facilities to facilitate public access, inspection and emergency access; such public access easements to become effective upon completion of each private street.
- D. Definition of Construct. For purposes of this Proffer "construct" shall mean that the committed road improvement is open to use by the public for travel whether or not the improvement has been accepted for maintenance by the state or has obtained the release of bond.
- E. Naming. The Applicants reserve the right to provide different names for the streets than those shown on the CDP.
- F. Street Closures. The Applicants may temporarily close part or all of any streets to accommodate construction activity on the Property provided safe and adequate vehicle and pedestrian access is maintained.
- G. Parking Lanes. The Applicants shall provide on-street parking throughout the limits of the Property as generally located on the CDP and as may be adjusted with approval of the FDP and/or site plan. The County and VDOT may restrict

parking during peak commuting periods (typically 6:00 to 9:00 AM and 4:00 to 7:00 PM), in order to provide for turning movements to/from the public and/or private street network or to provide additional travel lanes. If requested by the County and/or VDOT, the Applicants shall install signs restricting parking subject to VDOT approval.

26. Leesburg Pike Frontage. The Applicants, subject to approval from VDOT and FCDOT, shall construct improvements along the Property's Leesburg Pike frontage measuring approximately 13 feet back from the existing face of curb to accommodate an additional combination through/right turn lane as shown on Sheets C-6 and C-6A of the CDP. Such improvement shall include a concrete bus stop pad located in the new combination through/right turn lane and a bus shelter as described in Proffer 36, subject to VDOT approval. Said improvements shall be constructed concurrent with the construction of the Viale Centrale/Leesburg Pike intersection as set forth in Proffer 29. In the event that the Limited Access Break described in Proffer 31 is not approved, the construction of said Leesburg Pike improvements shall occur with the construction of Station Place.
27. Station Place
- A. If not previously constructed by others, then in conjunction with the submission of the site plan for Buildings A, B or C, whichever occurs first, the Applicants shall submit a Public Improvement Plan (the "Road Plan") for the ultimate improvement of Station Place generally from Leesburg Pike to Center Street. Station Place shall be designed with an ultimate section measuring approximately 41 feet from face of curb to face of curb to accommodate three lanes of traffic and a bicycle lane on one side of the street as depicted on Sheets C-6, C-6A and C-8 of the CDP with lane assignments and striping determined at site plan. This cross section will be reviewed with FCDOT at the time of FDP submission for the first of Buildings A, B or C and may be further refined at site plan without the need for a PCA and/or CDPA.
- B. As a part of the Road Plan, the Applicants shall design and construct an interim section of Station Place from Leesburg Pike to Center Street as depicted on Sheet C-9 and identified as *Station Place/Center Street "T" Intersection and Phase II Pedestrian Plan – Interim Option #1 ("Interim Option 1")* on Sheet C-10, which sets the eastern curb of Station Place in its ultimate location and maintains the western curb of Station Place in its existing location resulting in an interim section measuring 51 feet from face of curb to face with lane assignments and striping determined at site plan. This cross section will be reviewed with FCDOT at the time of FDP submission for the first of Buildings A, B, or C and may be further refined at site plan without the need for a PCA and/or CDPA. It is anticipated that the western curb will be reconstructed in its ultimate location with the redevelopment of 2013 Fairfax County tax maps as Tax Map 29-3 ((15)) 4E and 4F (the "Meridian Parcels").

Construction of *Interim Option #1* Station Place improvements will require off-site right-of-way or easements from the Meridian Parcels and an adjacent parcel

identified on the 2013 Fairfax County tax maps as Tax Map 29-3 ((15)) 3C (the "Beacon Parcel"). It is understood that the necessary off-site right-of-way or easements from the Meridian Parcels will be made available to the Applicants. In the event the Applicants are unable to acquire the rights-of-way and/or easements necessary to construct *Interim Option #1* Station Place improvements through a cooperative agreement with the owners of the Beacon Parcel, then the Applicants shall submit a written request for condemnation to Fairfax County in accordance with Proffer 61.

- C. In the event the County elects not to use its powers of condemnation to acquire those off-site rights-of-way and/or easements from the Beacon Parcel to facilitate the construction of *Interim Option #1* Station Place improvements, then the Applicants shall be relieved of its obligation to construct *Interim Option #1* improvements and instead be permitted to construct a reduced interim section of Station Place identified as *Modified "T" Intersection Station Place/Center Street and Phase II Pedestrian Plan – Interim Option #2* ("*Interim Option #2*") on Sheet C-10 which sets the eastern curb of Station Place in an interim location and maintains the western curb of Station Place in its existing location resulting in an interim section measuring 24 to 30 feet from face of curb to face. In this event, the Applicants shall reserve the right-of-way for the ultimate design of Station Place and shall escrow with DPWES the cost of the future relocation of the eastern curb to its ultimate location and any reconstruction of the streetscape along the east side of Station Place.
- D. The final design of either *Interim Option #1* or *Interim Option #2* improvements to Station Place as generally described above shall be further refined and determined in conjunction with the submission of the FDP(s) and site plan(s) for Buildings A, B or C.
- E. Construction of Station Place shall be provided consistent with the Phasing Sheets, except where modified by FDP, prior to the issuance of the first RUP or Non-RUP for Buildings A, B or C, whichever occurs first.
- F. If Station Place is to be constructed by others prior to the Applicants' obligation to construct as stated above, then upon written demand by Fairfax County, the Applicants shall dedicate and convey at no cost the right-of-way and ancillary easements necessary to facilitate such construction by others provided: (i) sufficient interim access to/from the existing on-site uses is maintained at all times; and (ii) such improvements to the Property are minimized and coordinated with the Applicants prior to site plan approval for the improvement of this section of Station Place. In addition the Applicants shall escrow, or demonstrate that it has otherwise provided, its share of the cost of the ultimate improvements along the Property's frontage prior to the issuance of the building permit associated with Buildings A, B, or C, whichever occurs first. The specific streetscape improvements as reflected on the Phasing Sheets along the Building A and B frontages shall be constructed by the Applicants with the development of Buildings A and B and associated Metro Plaza improvements.

28. Center Street. The Applicants shall construct Center Street through the Property connecting Station Place and Pinnacle Drive. The ultimate alignment of Center Street shall be designed as a 54 foot section from face of curb to face of curb as depicted Sheet C-8 on the CDP.

- A. Center Street Between Station Place and the Property's Eastern Boundary. Between Station Place and the Property's eastern boundary, the Applicants shall construct Center Street as a 24 foot interim section from face of curb to face of curb to accommodate two lanes of traffic (one in each direction) as shown on Sheets C-6, C-6A and C-9 of the CDP. It is anticipated that the future redevelopment of adjacent properties will provide widening or realignment to accommodate additional lanes and on-street bicycle facilities. The section of Center Street connecting Station Place and Viale Centrale shall be constructed prior to the issuance of the first RUP or Non-RUP for Buildings B or C, whichever shall be completed first, unless otherwise determined jointly by the Applicants and Fairfax County at the time of FDP approval for Buildings B or C. The section of Center Street between Viale Centrale and the Property's eastern boundary shall be constructed prior to the issuance of the first RUP or Non-RUP for Buildings D or E whichever shall occur first.

Construction of this section of Center Street as shown on Sheets C-6, C-6A and C-9 of the CDP will require off-site rights-of-way and/or easements from the adjacent parcel identified on the 2013 Fairfax County tax maps as Tax Map 29-3 ((15)) 2, 3B and 3C (the "Off-Site Parcels"). The Applicants shall make diligent efforts to obtain the necessary off-site rights-of-way and/or easements to construct Center Street through a cooperative agreement with owners of the Off-Site Owners.

- (i) In the event the Applicants are unable to acquire the right-of-way and/or easements necessary to construct the above improvement through a cooperative agreement with the owner(s), which may include a reservation of advanced density credit for dedicated rights-of-way consistent with the Ordinance, then the Applicants shall submit a written request to Fairfax County in accordance with Proffer 62.
- (ii) In the event the County elects not to use its powers of condemnation to acquire the off-site rights-of-way and/or easements to facilitate the construction of the above improvement, then the Applicants shall be relieved of their obligation to construct the section of Center Street shown on Sheet C-6 and be permitted to construct the *Interim Option #2* alignment of Center Street with an interim section dimension as shown on Sheet C-10. In the event the Applicants construct the *Interim Option #2* alignment, then the Applicants shall fully fund and install traffic signals at the time of the construction of the intersections of Station Place and Center Street, Center Street and Pinnacle Drive; and Leesburg Pike and Station Place, or as may be warranted by VDOT. Should any of the signals not be warranted, the Applicants shall escrow their pro rata cost of

the unwarranted signal(s), as set forth in Proffer 32, with Fairfax County for future installation by others.

- B. Center Street Between the Property's Eastern Boundary and Pinnacle Drive
Between the Property's eastern boundary and Pinnacle Drive, the Applicants shall construct an interim section of Center Street measuring approximately 37.5 feet from face of curb to face of curb to accommodate three lanes of traffic as shown on Sheets C-6, C-6A and C-9 of the CDP. This section of Center Street shall be constructed prior to the issuance of the first RUP or Non-RUP for Building D or E, whichever shall occur first.

Construction of this interim section will require 15 feet of off-site right-of-way previously reserved on property shown on the Fairfax County 2013 tax maps as Tax Map 29-3 ((15)) 2 as well as permission and a roadway license from property shown on the Fairfax County 2013 tax maps as Tax Map 29-3 ((1)) 69. In the event the Applicants are unable to acquire the permission and roadway license necessary to construct the above improvement through a cooperative agreement with the owners, then the Applicants shall escrow the cost of constructing the interim section from its eastern boundary to Pinnacle Drive and thereby be relieved of their obligation to construct that section of Center Street. Such escrow shall be posted prior to the approval of a site plan for Building D or E, whichever occurs first.

- C. Northern Alignment by Others. In the event, Center Street is reconstructed by others on a more northern alignment, the Applicants shall construct, an enhanced streetscape/public open space area specifically located on the Property as shown on Sheet L-4.2. In addition, the Applicants shall reconstruct the loading and parking entrances between Buildings B and C as may be required with the realignment of Center Street.
- D. Tyson's Grid of Streets Transportation Fund Credit. In the event the Applicants, at their sole discretion, construct the off-site portion of Center Street extending from the Property's eastern boundary to Pinnacle Drive as more fully described in Paragraph B above in advance of their obligation to do so as specified in Paragraph B above, then the Applicants may request and may be granted in-kind credit as outlined in the Board of Supervisor's Guidelines for the Tyson's Grid Fund.

29. Viale Centrale. The Applicants shall construct Viale Centrale within the Property from Center Street to Leesburg Pike with a section measuring approximately 38 feet from face of curb to face of curb to accommodate two lanes of traffic (one lane in each direction) with parallel parking on both sides of the street in specified locations as generally depicted on Sheet C-6 of the CDP. Viale Centrale shall be privately owned and maintained with parking garages and other uses permitted under the street. The Applicants reserve the right to close a portion of Viale Centrale on a temporary basis to accommodate special events such as, but not limited to, art fairs, farmers markets, outdoor concerts, festivals and other such events provided safe and adequate vehicle and

pedestrian access is maintained. Viale Centrale from Leesburg Pike to Tysons Central Street shall be constructed prior to the issuance of the first RUP or Non-RUP for Building A or F, whichever is completed first.

- A. With the construction of either Building A, B or C, whichever occurs first, the Applicants shall, subject to VDOT approval: 1) close the existing connection of the service drive paralleling Leesburg Pike to Leesburg Pike; and 2) remove the portion of the service drive between Station Place and Viale Centrale. With the construction of Building A the Applicants shall: 1) construct a service alley to serve Building A as shown on the CDP; and 2) construct the new connection of Viale Centrale to Leesburg Pike.
- B. With the construction of Building F, the Applicants shall, subject to VDOT approval: 1) remove the existing service drive paralleling Leesburg Pike from Viale Centrale to the east and construct a park as shown on the CDP and further described in Proffer 52D; 2) reconstruct the service drive east of Building F as a service alley serving the loading and parking for Building F; and 3) construct the new connection of Viale Centrale to Leesburg Pike.
- C. Construction of the connection to Leesburg Pike will require approval of a break in the existing Limited Access Line along Leesburg Pike (the "Limited Access Break") as described in Proffer 31. In the event approval of the Limited Access Break is delayed beyond the completion of Buildings A or F, the Applicants shall provide for alternate interim access acceptable to FCDOT and VDOT. Such alternate interim access shall be reviewed and approved with the FDP for Buildings A and/or F, as applicable.
- D. Viale Centrale from Tysons Central Street to Center Street shall be constructed prior to the issuance of the first RUP or Non-RUP for Building B or C, whichever is completed first.
- E. Due to the potential construction phasing, the Applicants reserve the right to delay the installation of the final specialty paving materials in the Central Piazza until the last of Buildings A, B, C, E and F are constructed. If delayed, alternate interim paving shall be included in the FDP application for the respective buildings.

30. Tysons Central Street

- A. Tysons Central Street from Viale Centrale to the existing portion of Tysons Central Street shall be constructed with a section measuring approximately 24 feet from face of curb to face of curb to accommodate two lanes of traffic (one lane in each direction). It shall be privately owned and maintained with parking garages and other uses permitted under the street. This section of Tysons Central Street shall be constructed prior to the issuance of the first RUP or Non-RUP for Building F.
- B. The existing section of Tysons Central Street located along the Property's eastern boundary shall be reconstructed in part in order to improve the grade and

relationship to the Property. It is anticipated that this improvement will extend northward along property identified on the Fairfax County 2013 tax maps as Tax Map 29-3 ((1)) 78B and may require reconstruction of its site access by the Applicants. This section of Tysons Central Street shall be constructed prior to the issuance of the first RUP or Non-RUP for either of Buildings D, E or F, whichever is completed first.

31. Limited Access Break. Construction of the new connection of Viale Centrale to Leesburg Pike will require approval of a break in the existing Limited Access Line along Leesburg Pike shown on Sheet C-5 of the CDP (the "Limited Access Break"). Having filed a request for the Limited Access Break with VDOT, the Applicants shall diligently pursue its approval. If the Limited Access Break is not approved and a direct connection between Viale Centrale and Leesburg Pike cannot be constructed, then the Applicants shall:
- A. Construct an alternate grid of streets to serve the Proposed Development as shown on Sheet C-6A; such construction to be phased to development, with the existing service drive paralleling Leesburg Pike remaining open and connected to Leesburg Pike until such time as the first of Buildings A, B or C is constructed;
 - B. Construct a public park/plaza along Building A's Leesburg Pike frontage as shown on Sheet L-4.3 prior to the issuance of the first Non-RUP for Building A;
 - C. Escrow the cost of constructing the connection of Viale Centrale to Leesburg Pike, so as to facilitate construction should the Limited Access Break be approved in the future;
 - D. Limit development on the Property to the construction and occupancy of four buildings (with a maximum of 1,300,000 GFA) until such time as Center Street is constructed from Station Place to Pinnacle Drive;
 - E. Resubmit and process a request for approval of the Limited Access Break prior to the site plan approval for the third building to be constructed on the Property; and should the Limited Access Break be approved, construct the connection to Leesburg Pike (utilizing the escrowed funds) and reconstruct the area in front of Building F to a park/plaza like setting; and
 - F. Provide supplemental operational traffic analyses as may be required by FCDOT or VDOT at the time of FDP and/or site plan submission for each new building (excluding new interim buildings) to demonstrate that the proposed segments of the grid of streets shown on the FDP are adequate to support the proposed building(s). Commitments to the timing of construction of the necessary grid of streets to support the Proposed Development outlined elsewhere in these Proffers may be adjusted at the time of FDP approval based on the supplemental analyses, without the requirement for a PCA or CDPA.
32. Traffic Signals.

- A. If requested by VDOT, the Applicants shall complete and submit to VDOT warrant studies for potential signals at the following intersections within 12 months of the issuance of the first RUP or Non-RUP for the second building to be constructed on the Property and each consecutive building:
- (i) Station Place and Center Street;
 - (ii) Center Street and Pinnacle Drive; and
 - (iii) Leesburg Pike and Station Place.
- Such studies shall include a review of both vehicular and pedestrian volume warrants.
- B. If a signal(s) is warranted by VDOT, the Applicants shall equip and install the signal along with installation of pedestrian crosswalks and audible pedestrian countdown signals as may be permitted and approved by VDOT, utilizing any escrowed contributions for the signal(s) received by the County and any future escrowed contributions received by the County within ten (10) years of installation of the applicable signal by the Applicants.
- C. If a signal at Station Place/Center or Center Street/Pinnacle Drive is not warranted within twenty-four (24) months after the issuance of the initial RUP or Non-RUP for the last new building to be constructed on the Property, then the Applicants' obligation to construct such signal(s) is deemed null and void and the Applicants shall instead escrow with the County their pro rata share of the signal(s) based on 2020 PM peak trip estimates toward the cost of future signalization of the intersection(s) by others.
- D. For any signal warranted by VDOT, the Applicants shall provide VDOT with the requisite traffic signal plans for review and approval. All right-of-way associated with signal equipment (poles, equipment boxes, etc.) on the Property not already dedicated shall be reserved for dedication in fee simple to the Board of Supervisors in accordance with Proffers 25B and 61.
- E. If the County, upon request of the Applicants or on its own initiative, determines that such signal installations as proffered will be detrimental to traffic operations, the Zoning Administrator may (1) agree to a later date for completion of the traffic signal installation(s) or (2) permit the Applicants to proceed without the signal installations.
33. Route 123 Slip Ramp. Subject to VDOT and FHWA approval, the Applicants reserve the right to design and construct a vehicular connection ("Slip Ramp") within the existing right-of-way on southbound Route 123 between International Drive and Leesburg Pike, providing direct access to Tysons Central Street and Pinnacle Drive. Should the Applicants elect to file a public improvement plan/site plan, as may be applicable, for the Slip Ramp and construct the Slip Ramp, the Applicants may request in kind credit for all costs associated with the design, permitting and construction, including the relocation of

all utilities, traffic signals, etc., for the Slip Ramp against their proffered contributions to the Tysons Grid of Streets Transportation Fund as described in Proffer 34. Should VDOT not approve a limited access break for the Slip Ramp, the public improvement plan/site plan or fail to issue the necessary permits for construction of the Slip Ramp, the Applicants shall have no further obligation under this Proffer. Nothing herein shall limit the Applicants ability to file for and receive site plan approvals, building permit approvals, RUPs and Non-RUPS for the entirety of the Proposed Development.

34. Tysons Grid of Streets Transportation Fund. The Applicants shall provide a contribution of \$1,000.00 for each residential unit and \$6.44 for each square foot of new non-residential space constructed on the Property to Fairfax County for the Tysons Grid of Streets Transportation Fund. The contribution associated with each building shall be paid on or before the issuance of the initial RUP or Non-RUP for the subject building based on the actual GFA of non-residential space and/or the actual number of residential units in the building. This contribution shall not apply to any public-use facilities constructed on the Property. The Applicant shall receive and deduct credits against the contributions that would otherwise be due to the County for the Grid of Streets Transportation Fund in keeping with the Guidelines for the Tysons-wide Transportation Fund endorsed by the Board of Supervisors on January 8, 2013.

Pursuant to the Guidelines, the Applicants shall receive credits for the following costs:

- A. Costs incurred by the Applicant at the request of the County in the preparation of plats, exhibits, agreements and administrative fees to advance the granting of a license/easement agreement allowing for the construction of Center Street between the Property's eastern boundary and Pinnacle Drive; and
- B. Costs incurred by the Applicants in the acquisition of off-site right-of-way and associated easements for the construction of off-site public streets and intersection improvements (including the intersection of Station Place and Center Street).

Furthermore, the Applicants may request in-kind credit for the advancement of the construction of Center Street between the Property's eastern boundary and Pinnacle Drive as referenced in Proffer 28D, the construction of the Route 123 Slip Ramp as referenced in Proffer 33, and the costs borne by the Applicants associated with any Fairfax County condemnation actions requested by the Applicants for the construction of off-site public streets and intersection improvements.

35. Tysons-wide Transportation Funds. The Applicants shall contribute the sum of \$5.63 per square foot of new non-residential space and \$1,000.00 for each residential unit constructed on the Property to Fairfax County for the Tysons-wide Transportation Fund. This contribution shall not apply to any public-use facilities constructed on the Property, including the public use described in Proffer 55. The contribution associated with each building shall be paid on or before the issuance of each initial RUP or Non-RUP for the subject building based on the actual GFA of non-residential space and/or the actual number of residential units in the building. The Applicants shall receive and deduct credits against the contributions that would otherwise be due to the County for the

Tysons-wide Transportation Fund in keeping with the Guidelines for the Tysons-wide Transportation Fund endorsed by the Board of Supervisors on January 8, 2013.

36. Bus Facilities. In conjunction with the Applicants' improvement to Leesburg Pike as discussed in Proffer 26, the Applicants shall install a reinforced concrete bus stop pad within the new combination through/right turn lane and a bus shelter along the Property's Leesburg Pike frontage integrated into the Metro Plaza design. In the event FCDOT and/or WMATA determine that the reinforced concrete bus stop pad and/or bus shelter will not be needed, then the Applicants' obligation to provide a concrete pad and bus shelter shall be deemed null and void.

If not previously constructed by others, then prior to the issuance of the first RUP or Non-RUP for the first new building (excluding new interim buildings) on the Property the Applicants shall design and construct a layover bus bay in the Leesburg Pike right-of-way west of proposed Station Place. The Applicants shall be entitled to utilize any escrowed contributions for the layover bus bay received by the County or any future escrowed contributions received by the County within ten (10) years of installation of the layover bus bay by the Applicants. Should the layover bus bay be constructed by others prior to the obligation of the Applicants to do so, the Applicants shall, prior to the issuance of the first RUP or Non-RUP for the first new building (excluding new interim buildings) on the Property, escrow 50% of the cost of designing and constructing the layover bus bay with the County for disbursement to the constructing party. In the event FCDOT and/or WMATA determine that a layover bus bay will not be needed, then the Applicants' obligation to provide or partially fund the layover bus bay shall be deemed null and void and any escrowed contributions shall be returned to the Applicants.

PEDESTRIAN AND BICYCLE FACILITIES

37. Bicycle Parking. The Applicants shall provide bicycle racks, and bike storage areas throughout the Property both at the street level and within the parking garages, the specific locations of which shall be determined at the time of FDP approval. The bike racks shall be inverted U-style racks or other design approved by Fairfax County Department of Transportation in consultation with OCR. The total number of bike parking/storage spaces shall be consistent with LEED certification requirements or as may be determined at the time of FDP approval.
38. Pedestrian Path to Metro.
- A. The Applicants shall coordinate with the owners of adjacent properties identified as 2013 Tax Map 29-3 ((15)) 3C and 4E (the "Adjacent Properties") to design and construct a five (5) foot wide concrete sidewalk to the Greensboro Metro Station as shown on Sheet C-10 of the CDP. This sidewalk is primarily located off-site of the Property. Provided all necessary easements and cost sharing agreements are in place within six (6) months of the approval of this Rezoning, the Applicants shall construct the sidewalk and open it for public use within 18 months of the approval of this Rezoning.

- B. If all necessary easements and cost sharing agreements are not in place within six (6) months of the approval of this Rezoning, upon request of the Applicants, the Zoning Administrator may agree to a later date for completion of the sidewalk installation. However, delay in the sidewalk installation shall not limit the Applicants ability to file for and receive site plan approvals, building permit approvals, RUPs and Non-RUPS for the entirety of the Proposed Development.
- C. If all necessary easements and cost sharing agreements are not in place within five (5) years of the approval of this Rezoning, then the Applicants obligation to install such sidewalk shall be null and void and instead the Applicants shall escrow the cost of installing that portion of the sidewalk located on the Property with DPWES.
- D. Should another party (including Fairfax County) seek to construct the sidewalk in advance of the Applicants' obligation to do so, upon demand by Fairfax County, the Applicants shall make the necessary right-of-way and/or ancillary easements on the Property available at no cost for the construction of the sidewalk by others.

PARKING

- 39. Zoning Ordinance Requirements. Parking on the Property shall be provided in accordance with the parking requirements for the PTC District set forth in Section 6-509 and Article 11 of the Fairfax County Ordinance, and as shown on the CDP. Tandem and valet parking shall be permitted and shall count toward parking requirements. Tandem parking spaces may be used for residential units with two cars and in office and hotel buildings where spaces are assigned by building management. The exact number of spaces to be provided shall be refined with approval of FDPs and determined at the time of site plan approval based on the specific uses, number of residential units and bedroom mix. If changes in the mix of uses or bedroom mix result in parking greater than that anticipated on the CDP, the additional parking spaces shall be accommodated within the proposed parking structures, without increasing the height or mass of the above-grade parking structures.
- 40. Phasing of Parking. Parking shall be provided in phases commensurate with development of the Property. Parking spaces in excess of the maximum parking ratios set forth in the Ordinance may be provided in the early phases of development of the Property, provided that at completion of the full build-out of the Property, the maximum parking rates are not exceeded. Required parking spaces for an individual building need not be provided on the parcel on which the building is located, but shall be provided within the Property.
- 41. Commercial Off-Street Parking.
 - A. The Applicants may provide commercial off-street parking on an interim basis in existing surface lots on the Property without approval of an FDP.
 - B. Commercial off-street parking may be provided on an interim basis in new surface lots on the Property with approval of an FDP.

- C. With approval of an FDP, commercial off-street parking may be provided on an interim basis in new parking structures built to support the Proposed Development which due to phasing have excess parking capacity.
 - D. Prior to site plan approval or issuance of a Non-RUP for commercial off-street parking in existing surface lots, whichever shall occur first, or at the time of FDP approval for commercial off-street parking in new surface lots or garages, the Applicants shall provide an operational traffic analysis (“Operational Analysis”) of points of access to the parking lot(s). Such Operational Analyses shall be limited to an assessment of those driveways and/or turn lanes serving the particular parking lot(s) and any proposed access controls.
 - E. Any establishment of interim commercial off-street parking facilities shall provide interim improvements as set forth in Proffer 24. New surface parking lots shall provide interior and peripheral parking lot landscaping, in accordance with the PFM. This parking shall be in addition to the permitted parking for the proposed uses on the Property.
42. Parking Spaces along Streets. The Applicants shall provide on-street parking spaces as generally as shown on the FDP for each building subject to VDOT approval as may be applicable for public streets. The spaces may be part of or in addition to the total number of required parking spaces to be provided. The Applicants reserves the right to restrict the use of spaces along any private streets, through appropriate signage or such other means as the Applicants determines, that otherwise are not required to satisfy the parking requirements for use as temporary or short term parking, car-share parking and/or similar uses.
43. Parking Stipulations.
- A. The Applicants shall provide controlled access to the parking garages and shall ensure that the control equipment is capable of counting vehicles entering and exiting the garages. Such controls shall be located so as to avoid vehicle stacking on the public streets.
 - B. The sale or lease rates of parking spaces shall be “unbundled” from the purchase price or lease rate of the individual dwelling units; meaning a unit’s purchase price or lease rate shall be exclusive of parking costs.
 - C. The Applicants shall be permitted to install and maintain parking controls and fencing on its existing surface parking lots, without the requirement for a FDP, in order to control Metro-related parking by the general public.
44. Future Parking Revisions.
- A. Ordinance Revisions. The Applicants reserve the right to provide parking at revised rates as may be permitted by a future amendment to the Fairfax County Ordinance. Optional use of revised rates shall not require a CDPA or PCA,

provided there is no increase in the size or height of above-grade parking structures.

- B. Increases. The Applicants reserve the right to seek a special exception for an increase in parking for the Property; such special exception application shall not require a CDPA or PCA, provided there is no increase in the size, height, or massing of above-grade parking structures.

TRANSPORTATION DEMAND MANAGEMENT

45. Tysons Transportation Management Association. The Applicants shall contribute towards the establishment of a future transportation management association (the "TMA"), which may be established for the Tysons Corner Urban Center and which all other Tysons property owners will contribute to also.
- A. The Applicants shall make a one-time contribution to Fairfax County for the establishment of this future TMA based on a participation rate of \$0.10 per gross square foot of new office uses and \$0.05 per gross square foot of new residential uses to be constructed on the Property.
- B. Twenty-five percent (25%) of the total contribution to the TMA shall be paid upon site plan approval of the first new building to be constructed on the Property. The remaining seventy-five (75) percent of the total contribution shall be paid in three (3) equal installments prior to the issuance of the first initial RUP or Non-RUP for the subsequent three (3) new buildings but in any event no later than ten (10) years from the date of this rezoning approval.
- C. If subsequent to the approval of this Rezoning, a Tysons Corner Urban Center-wide TMA is approved by FCDOT and established for the purpose of administering TDM programs in the Urban Center, then the Applicants may, at his sole discretion, join or otherwise become associated with such entity and transfer some or all functions of this TDM Program to the new entity, whereupon this Proffer in whole or in part shall be void and of no further force or effect. Further, if determined by FCDOT that a proactive, private TDM program is no longer necessary, the TDM structure in this Proffer may be rendered null and void in whole or in part without the need for a PCA.
- D. If the TMA has not been established within three (3) years after the approval of this Rezoning, this Proffer shall be null and void with no further effect on the Property. Further, any funds contributed to the TMA would then be returned to the Applicant.
46. Transportation Demand Management Plan. The proffered elements of the TDM Program as set forth below are more fully described in the Tysons Central Transportation Demand Management Plan prepared by Wells + Associates, Inc. dated May 2013 (the "TDM Plan"). It is the intent of this Proffer that the TDM Plan will adapt over time to respond to the changing transportation related circumstances of the Property, the surrounding community and the region, as well as to technological and/or other improvements, all

with the objective of meeting the trip reduction goals as set forth in these Proffers. Accordingly, modifications, revisions, and supplements to the TDM Plan as coordinated with FCDOT can be made without the need for a PCA provided that the TDM Plan continues to reflect the proffered elements of the TDM Program as set forth below.

- A. Definitions. For purposes of this Proffer, "Stabilization" shall be deemed to occur one-year following issuance of the last initial RUP or Non-RUP for the final new building to be constructed on the Property. "Pre-stabilization" shall be deemed to occur any time prior to Stabilization.

- B. Trip Reduction Objective. The objective of this TDM Program shall be to reduce the vehicle trips generated by residents and office tenants of the Property (i.e., not including trips from hotel and retail uses), during weekday peak hours associated with the adjacent streets as more fully described in the TDM Plan, by meeting the percentage vehicle trip reductions established by the Comprehensive Plan as set forth below. These trip reduction percentages shall be multiplied by the total number of residential and office vehicle trips that would be expected to be generated by the uses developed on the Property as determined by the application of the Institute of Traffic Engineers, 8th Edition, Trip Generation rates and/or equations (the "ITE Trip Generation"), and the number of trips determined by the product of such equation shall be referred to herein as the "Maximum Trips After Reduction." For purposes of this calculation, the maximum number of dwelling units or the total gross square footage of office uses proposed to be constructed in each new building on the Property, as determined at the time of site plan approval for each new building, shall be applied to the calculation described in the preceding sentence. The target reductions shall be as follows:

<u>Development Levels</u>	<u>Percentage Vehicle Trip Reduction</u>
Up to 65 million GSF	30%
65 million GSF	35%
84 million GSF	40%
90 million GSF	43%
96 million GSF	45%
105 million GSF	48%
113 million GSF	50%

The trip reduction goals outlined above are predicated on the achievement of specific development levels within the Tysons Corner Urban Center as anticipated in the Comprehensive Plan. Prior to undertaking trip measurements, the TPM shall provide the County with a summary of the then existing development levels in Tysons Corner (based on RUPs and Non-RUPS issued) in order to determine the appropriate vehicle trip reduction goal.

If through an amendment to the Comprehensive Plan, the Board of Supervisors should subsequently adopt a goal for trip reductions that is lower than that

committed to in this Proffer, then the provisions of this Proffer shall be adjusted accordingly without requiring a PCA.

- C. TDM Program Components – Site-Wide. The TDM Program shall include, but not necessarily be limited to, the following site-wide components, each of which are more fully described in the TDM Plan:
- (i) Site-wide TDM Program Management.
 - (ii) TDM Program Branding.
 - (iii) Transportation Program Web Site.
 - (iv) Promotion of Real Time Transit Information.
 - (v) Site Specific Transportation Access Guide.
 - (vi) Live/work/play marketing to new tenants.
 - (vii) Pedestrian/bicycle facilities.
 - (viii) Monitoring/reporting.
 - (ix) Sustainable annual funding.
 - (x) Parking Management.
- D. TDM Program Components – Residential. The TDM Program shall include, but not necessarily be limited to the following residential components, each of which is more fully described in the TDM Plan.
- (i) Residential Transportation Coordinators.
 - (ii) Try Transit Campaign for new residents
- E. TDM Program Components – Office. The TDM Program shall include, but not necessarily be limited to the following office components, each of which is more fully described in the TDM Plan.
- (i) Office Transportation Coordinators.
 - (ii) Coordinated Outreach and Marketing Activities with TDM Providers.
 - (iii) Try Transit Campaign for new employees
- F. Process of Implementation. The TDM Program shall be implemented as follows, provided that modifications, revisions, and supplements to the implementation process as set forth herein as coordinated with FCDOT can be made without requiring a PCA.

- (i) TDM Program Manager. If not previously appointed, the Applicants shall appoint and continuously employ, or cause to be employed, a TDM Program Manager (TPM). If not previously appointed, the TPM shall be appointed by the Applicants no later than sixty (60) days after the issuance of the first building permit for the first new building to be constructed on the Property. The TPM duties may be part of other duties associated with the appointee. The Applicants shall notify FCDOT and the District Supervisor in writing within 10 days of the appointment of the TPM. Thereafter the Applicants shall do the same within ten (10) days of any change in such appointment.
- (ii) Annual Report and Budget. The TPM shall prepare and submit to FCDOT an initial TDM Work Plan ("TDMWP") and Budget no later than 180 days after issuance of the first building permit for the first new building (excluding new interim buildings) on the Property. Every calendar year thereafter but no later than February 15th, the TPM shall submit an Annual Report, which may revise the Budget in order to incorporate any new construction on the Property. The Annual Report shall include, at a minimum:
- a. Details as to the start-up components of the TDM Plan that will be put into action effective with the first new building (excluding new interim buildings) on the Property;
 - b. The budget needed to implement the TDM Plan (the "Budget") for the coming calendar year;
 - c. A summary of the then existing development levels in the Tysons Corner Urban Center
 - d. A determination of the applicable Maximum Trips After Reduction for the Property;
 - e. Provision of the specific details associated with the monitoring and reporting requirements of the TDM program in accordance with the TDM plan; and
 - f. Submission of the results of any Person Surveys and/or Vehicular Traffic Counts conducted in conjunction with each Annual Report.

The Annual Report and Budget shall be reviewed by FCDOT. If FCDOT has not responded with any comments within sixty (60) days after submission, then the Annual Report and Budget shall be deemed approved and the program elements shall be implemented. If FCDOT responds with comments on the Annual Report and Budget, then the TPM will meet with FCDOT staff within fifteen (15) days of receipt of the County's comments. Thereafter but in any event, no later than thirty (30) days after the meeting, the TPM shall submit such revisions to the program and/or

budget as discussed and agreed to with FCDOT and begin implementation of the approved program and fund the approved Budget. Thereafter the TPM, in conjunction with each annual report summarizing the results of the TDM Program to be submitted no later than February 15th (the "Annual Report"), shall update the Annual Report and Budget for each succeeding calendar year, modify or enhance program elements and establish a budget to cover the costs of implementation of the TDM Plan for such year. The expected annual amounts of the Budget are further described in the TDM Plan.

- (iii) TDM Account. If not previously established, the Applicant, through the TPM, shall establish a separate interest bearing account with a bank or other financial institution qualified to do business in Virginia (the "TDM Account") within 30 days after approval of the initial TDMWP and Budget. All interest earned on the principal shall remain in the TDM Account and shall be used by the TPM for TDM purposes. The TDM Account shall be funded by the Applicant, through the TPM. The TDM Account shall not be eliminated as a line item in any governing budget associated with the Property and that funds in the TDM Account shall not be utilized for purposes other than to fund TDM strategies/programs and/or specific infrastructure needs as may be approved in consultation with FCDOT.

Funding of the TDM Account shall be in accordance with the budget for the TDM Program elements to be implemented in the following year. In no event shall the Budget exceed \$99,750.00 (this amount shall be adjusted annually from the date of rezoning approval for the Property (the "Base Year")) and shall be adjusted on each anniversary thereafter of the Base Year as permitted by VA. Code Ann. Section 15.2-2303.3. The TPM shall provide written documentation to FCDOT demonstrating the establishment of the TDM Account within ten (10) days of its establishment. The TDM Account shall be replenished annually thereafter following the establishment of each year's Budget. The TDM Account shall be managed by the TPM.

- (iv) TDM Remedy Fund. At the same time the TPM creates and funds the TDM Account, the TPM shall establish a separate interest bearing account (referred to as the "TDM Remedy Fund") with a bank or other financial institution qualified to do business in Virginia. Funding of the TDM Remedy Fund shall be made one time, on a building by building basis, at the rate of \$0.40 per gross square foot of new office uses and \$0.30 per gross square foot of new residential uses on the Property. Funding shall be provided by the building owners prior to the issuance of the first initial RUP or Non-RUP for each applicable new building (excluding new interim buildings). This amount shall be adjusted annually from the date of rezoning approval of the Property (the "Base Year") and shall be

adjusted on each anniversary thereafter of the Base Year as permitted by VA. Code Ann. Section 15.2-2303.3. Funds from the TDM Remedy Fund shall be drawn upon only for purposes of immediate need for TDM funding and may be drawn on prior to any Budget adjustments as may be required.

- (v) TDM Incentive Fund. The "TDM Incentive Fund" is an account into which the building owners, through the TPM, shall deposit contributions to fund a transit incentive program for initial purchasers/lessees within Arbor Row. Such contributions shall be made one time on a building by building basis at the rate of \$0.02 per gross square foot of new office or residential uses to be constructed on the Property and provided prior to the issuance of the first initial RUP or Non-RUP for each individual new building (excluding new interim buildings).
- (vi) TDM Penalty Fund. The "TDM Penalty Fund" is an account into which the Applicants shall, through the TPM, deposit penalty payments as may be required to be paid pursuant to this Proffer for non-attainment of trip reduction goals. The County may withdraw funds from the TDM Penalty Fund for the implementation of additional TDM Program elements/incentives and/or congestion management associated with the Property. To secure the Applicant's obligations to make payments into the TDM Penalty Fund, the Applicants shall provide the County with a letter of credit or a cash escrow as further described below.

Prior to the issuance of the first RUP or Non-RUP for each new building (excluding new interim buildings) on the Property, the Applicants shall:

- a. Establish the TDM Penalty Fund, if not previously established by the TPM, and/or
- b. Deliver to the County a clean, irrevocable letter of credit issued by a banking institution approved by the County or cash in an interest-bearing account acceptable to DPWES to secure the AG's obligations to make payments into the TDM Penalty Fund (the "Letter(s) of Credit or Cash Escrow(s)"). The Letter(s) of Credit or Cash Escrow(s) shall be issued in an amount equal to \$0.10 for each square foot of new office GFA or \$0.05 for each square foot of new residential GFA shown on the approved site plan for each new building on the Property. Until the Letter(s) of Credit or Cash Escrow(s) has been posted, the figures in the preceding sentence shall be adjusted annually from the first day of the calendar month following the date on which the first RUP or Non-RUP, as the case may be, for the first new building on the Property has been issued as permitted by VA. Code Ann. Section 15.2-2303.3. using the date of rezoning approval as the base year. Once the Letter(s) of Credit or Cash Escrow(s) has been posted, there shall be no further

adjustments or increases in the amount thereof. The Letter(s) of Credit or Cash Escrow(s) shall name the County as the beneficiary and shall permit partial draws or a full draw. The foregoing stated amount(s) of the Letter(s) of Credit or Cash Escrow(s) shall be reduced by the sum of any and all previous draws under the Letter(s) of Credit or Cash Escrow(s) and payments by the Applicants (or the TPM) into the TDM Penalty Fund as provided below.

- (vii) Monitoring. The TPM shall verify that the proffered trip reduction goals are being met through the completion of Person Surveys, Vehicular Traffic Counts of residential and/or office uses and/or other such methods as may be reviewed and approved by FCDOT. The results of such Person Surveys and Vehicular Traffic Counts shall be provided to FCDOT as part of the Annual Reporting process. Person Surveys and Vehicular Traffic Counts shall be conducted for the Property beginning one year following issuance of the final initial RUP or Non-RUP for the first new building to be constructed on the Property. Thereafter, Person Surveys shall be conducted every three years and Vehicular Traffic Counts shall be collected annually until the results of three (3) consecutive annual traffic counts conducted upon Stabilization show that the applicable trip reduction goals for the Property have been met. At such time and notwithstanding Paragraph H below, Person Surveys and Vehicular Traffic Counts shall thereafter be provided every five (5) years. Notwithstanding the above, FCDOT may suspend such Person Surveys and/or Vehicular Traffic Counts if conditions warrant.

G. Remedies and Penalties.

- (i) Pre-Stabilization. If the Maximum Trips After Reduction for the Property is exceeded as evidenced by the Vehicular Traffic Counts outlined above, then the TPM shall meet and coordinate with FCDOT to address, develop and implement such remedial measures as may be identified in the TDM Plan and annual TDMWP.

- a. Such remedial measures shall be funded by the Remedy Fund, as may be necessary, and based on the expenditure program that follows:

<u>Maximum Trips Exceeded</u>	<u>Expenditure</u>
Up to 1%	No Remedy needed
1.1% to 3%	1% of Remedy fund
3.1% to 6%	2% of Remedy Fund
6.1% to 10%	4% of Remedy Fund
Over 10%	8% of Remedy Fund

- b. If the results of the traffic counts conducted during Pre-Stabilization show that the trip reduction goals have been met site-wide for three (3) consecutive years in accordance with the goals outlined on the table below, then a portion of the Remedy Fund as outlined in the same table below shall be released back to the building owners through the TPM. The amount released will be relative to the amount contributed by those buildings constructed and occupied at the time Vehicular Traffic Counts. Any funds remaining in the Remedy Fund after such release will be carried over to the next consecutive three (3) year period.

Up to 65,000,000 Square Feet of GFA in Tysons		65-84,000,000 Square Feet of GFA in Tysons		84-90,000,000 Square Feet of GFA in Tysons	
Meet or Exceed Trip Goal for 3 years by:	Cumulative % Remedy Fund Returned	Meet or Exceed Trip Goal for 3 years by:	Cumulative % Remedy Fund Returned	Meet or Exceed Trip Goal for 3 years by:	Cumulative % Remedy Fund Returned
0% - 4.9%	30%	0.0% - 4.9%	50%	0.0% - 4.9%	65%
5% - 10%	50%	5% - 10%	65%	5% - 8%	80%
10.1% - 15%	65%	10.1% - 13%	80%	8.1% - 10%	90%
15.1% - 18%	80%	13.1% - 15%	90%	>10%	100%
18.1 - 20%	90%	>15%	100%		
>20%	100%				
90-96,000,000 Square Feet of GFA in Tysons		96-113,000,000 Square Feet of GFA in Tysons		113,000,000+ Square Feet of GFA in Tysons	
Meet or Exceed Trip Goal for 3 years by:	Cumulative % Remedy Fund Returned	Meet or Exceed Trip Goal for 3 years by:	Cumulative % Remedy Fund Returned	Meet or Exceed Trip Goal for 3 years by:	Cumulative % Remedy Fund Returned
0.0% - 4.9%	80%	0.0% - 4.9%	90%	> 0.0%	100%
5% - 8%	90%	5%	100%		
>8%	100%				

- c. There is no requirement to replenish the TDM Remedy Fund at any time. Any cash left in the Remedy Fund will be released to the TPM for final distribution to the Applicant/Owner once three

consecutive annual Traffic Counts conducted upon Stabilization show that the trip reduction goals have been met.

(ii) Upon Stabilization.

- a. If the TDM Program monitoring, as evidenced by the Vehicular Traffic Counts outlined above, reveals that the Maximum Trips After Reduction for the Property is exceeded, then the TPM shall meet and coordinate with FCDOT to address, develop and implement such remedial measures as may be identified in the TDM Plan and annual TDMWP and funded by the Remedy Fund (if available) as may be necessary, commensurate with the extent of deviation from the Maximum Trips After Reduction goal as set forth in accordance with the expenditure schedule outlined above.
- b. If the results of the traffic counts conducted upon-Stabilization show that the trip reduction goals have been met site-wide for three (3) consecutive years in accordance with the goals outlined on the table above, then any remaining Remedy Funds shall be released back to the building owners through the TPM.
- c. If despite the implementation of remedial efforts, the applicable Maximum Trips After Reduction (based on the existing development levels in the Tysons Corner Urban Center as described in Paragraph B above) are still exceeded after three consecutive years, then, in addition to addressing further remedial measures as set forth in this Proffer, the TPM shall be assessed a penalty according to the following:

Exceeded Trip Goals	Penalty
Less than 1%	No Penalty Due
1% to 3%	5% of Penalty Fund
3.1% to 6%	10% of Penalty Fund
6.1% to 10%	15% of Penalty Fund
Over 10%	20% of Penalty Fund

- d. The Applicants through the TPM shall make the payments required by this Proffer into the TDM Penalty Fund upon written demand by the County, and the County shall be authorized to withdraw the amounts on deposit in the TDM Penalty Fund. If the Applicants fail to make the required penalty payment to the TDM Penalty Fund within thirty (30) days after written demand, the County shall have the ability to withdraw the penalty amount directly from the Letter(s) of Credit or Cash Escrow(s).

- e. The maximum amount of penalties associated with the Property, and the maximum amount the Applicants shall ever be required to pay pursuant to the penalty provisions of this Proffer, including prior to and after Stabilization, shall not in the aggregate exceed the amount of the Letter(s) of Credit or Cash Escrow(s) determined and computed pursuant to the provisions of the above proffer. There is no requirement to replenish the TDM Penalty Fund at any time. The Letter(s) of Credit and/or any cash left in the Cash Escrow(s) (either Penalty and/or Remedy Funds) shall be released to the TPM once three consecutive counts conducted upon Stabilization show that the Maximum Trips After Reduction have not been exceeded.
- H. Additional Trip Counts. If an Annual Report indicates that a change has occurred that is significant enough to reasonably call into question whether the applicable vehicle trip reduction goals are continuing to be met, then FCDOT may require the TPM to conduct additional Trip Counts (pursuant to the methodology set forth in the TDM Plan) within 90 days to determine whether in fact such objectives are being met. If any such Vehicular Traffic Counts demonstrate that the applicable vehicle trip reduction goals are not being met, then the TPM shall meet with FCDOT to review the TDM strategies in place and to develop modifications to the TDM Plan to address the surplus of trips.
- I. Review of Trip Reduction Goals. At any time and concurrent with remedial actions and/or the payment of penalties as outlined in this Proffer, the TPM may request that FCDOT review the vehicle trip reduction goals established for the Property and set a revised lower goal for the Property consistent with the results of such Person Surveys and Vehicular Traffic Counts provided for by this Proffer. In the event a revised lower goal is established for the Property, the Maximum Trips After Reduction shall be revised accordingly for the subsequent review period without the need for a PCA.
- J. Continuing Implementation. The Applicants through the TPM shall bear sole responsibility for continuing implementation of the TDM Program and compliance with this Proffer. The TPM shall continue to administer the TDM Program in the ordinary course in accordance with this Proffer including submission of Annual Reports.
- K. Notice to Owners. All owners of the Property shall be advised of the TDM Program set forth in this Proffer. The then current owner shall advise all successor owners and/or developers of their funding obligations pursuant to the requirements of this Proffer prior to purchase and the requirements of the TDM Program, including the annual contribution to the TDM Program (as provided herein), shall be included in all initial and subsequent purchase documents.
- L. Enforcement. If the TPM fails to timely submit a report to FCDOT as required by this Proffer, the TPM will have sixty (60) days within which to cure such

violation. If after such sixty (60) day period the TPM has not submitted the delinquent report, then the Applicants shall be subject to a penalty of \$100.00 per day not to exceed \$36,500.00 for any one incident. Such penalty shall be payable to Fairfax County to be used for transit, transportation, or congestion management improvements within the vicinity of the Property.

47. Transportation Demand Management for Retail/Hotel Uses. As provided in the above Proffer, certain components of the TDM Plan are applicable to and will benefit any proposed retail/hotel uses on the Property. Therefore, the Applicants will provide an additional TDM program tailored to specifically serve the Retail/Hotel Uses (the "Retail/Hotel TDM Program"). In no event will penalties be assessed against any Retail/Hotel Uses, which may be established on the Property.
- A. Goals of the Retail/Hotel TDM Program. Because tenants of the Retail stores and Hotels and their employees work hours that are atypical of the standard work day, these tenants and their employees do not necessarily travel to and from the Property during Peak Hours. Given this, the Retail/Hotel TDM Program shall encourage Retail tenants, Hotel Guests and the Retail/Hotel employees to utilize transit, carpools, walking, biking and other non-Single Occupancy Vehicle ("non-SOV") modes of transportation to travel to and from the Property rather than focusing on the specific trip reductions during the AM or PM Peak Hours.
- B. Components of the Retail/Hotel TDM Program. The Retail/Hotel TDM Program shall include, at a minimum, those components applicable to the Property that are described in Proffer 46 and the additional components provided below. These additional components may be subsequently amended by mutual agreement between the Applicants and FCDOT. All amendments to the components of the Retail/Hotel TDM Program contained in this Proffer shall be approved by FCDOT and will not require a PCA. The Retail/Hotel TDM Program components are further described in the TDM Plan.
- (i) Employee/Tenant Meetings. The TPM shall hold, at a minimum, an annual TDM meeting with the Retail store tenants and Hotel Managers, and their respective employees, to review the available transit options, changes in transit service and other relevant transit-related topics. Based on these meetings, the TPM shall work with Fairfax County to consider changes to the relevant services, such as changes to bus schedules, if such changes would provide better service to the Property tenants and their employees.
- (ii) Regional TDM Programs. The TPM shall make information available to Retail store tenants, Hotel Guests and the Retail/Hotel employees about regional TDM programs that promote alternative commuting options. This shall include information on vanpools, carpools, guaranteed ride home and other programs offered by organizations in the Washington, D.C. Metropolitan Area.

- (iii) Retail/Hotel TDM Program Participation Outreach. The TPM shall endeavor in good faith to encourage participation by Retail store tenants and Hotel Management in the Retail/Hotel TDM Program, including the encouragement of a financial participation by such tenants through their direct offering of transit benefit programs and transit incentives to their employees. Actions taken by the TPM and Property management in furtherance of this objective may include dissemination of information to, and solicitation of participation from, the tenant's in-store management and executives or officers at their headquarters offices, at appropriate intervals. The TPM shall include a report to the County with respect to the activities described in the TDM Proffer as part of the Annual Report to be filed with the County. This report shall include detailed accounts of the outreach efforts and the feedback and response from the tenants.

48. Intelligent Transportation Systems. To optimize safe and efficient travel in Tysons, the Applicants shall incorporate and maintain a system that provides pertinent traffic and transit information that allows users to make informed travel decisions. This information shall be provided at initial occupancy of each building. The delivery of this information shall be made convenient for building occupants and visitors, such as via computer, cell phone, monitors, or similar technology. Such devices shall provide, but not be limited to, information on the following:

- A. Traffic conditions, road hazards, construction work zones, and road detours.
- B. Arrival times and delays on Metrorail, Tysons Circulator, and area bus routes.
- C. Real time parking conditions and guidance to current on-site parking vacancies, if available.
- D. Bus stops pre-wired for real-time arrival/departures information, if available.

The Applicants shall work with FCDOT and/or the Tysons Partnership to identify sources and facilitate electronic transmittal of data. Furthermore, the Applicants shall participate in efforts to implement any future dynamic traffic management program for the Tysons area.

AFFORDABLE/WORKFORCE HOUSING

49. Affordable Dwelling Units. If required by the provisions of Part 8 of Article 2 of the Ordinance, Affordable Dwelling Units ("ADUs") shall be provided pursuant to said regulations unless modified by the ADU Advisory Board.
50. Workforce Dwelling Units. In addition to any ADUs that may be required pursuant to this Proffer, the Applicants shall also provide for-sale and/or rental housing units on the Property in accordance with the Board of Supervisors' Tysons Corner Urban Center Workforce Dwelling Unit Administrative Policy Guidelines dated June 22, 2010. Workforce Dwelling Units ("WDUs") shall be provided such that the total number of ADUs, if any, plus the total number of WDUs results in not less than twenty percent (20%) of the total residential units constructed as part of the Proposed Development. If

ADUs are provided in the development, both the ADUs and the ADU bonus units shall be deducted from the total number of dwelling units on which the WDU calculation is based.

The WDUs generated by each residential building on the Property shall be provided within said building, however the Applicants reserve the right to consolidate the WDUs into one or more buildings with the build-out of the Property and thereby increase the number of WDU units in one or more buildings beyond twenty percent (20%) with a corresponding decrease in the number of WDU units in the other buildings. A minimum of ten percent (10%) of the dwelling units designated as ADUs and WDUs shall be designed and constructed with Universal Design features, as determined by the Applicants. The WDUs shall have a bedroom mix similar to that provided in the market rate units. Additionally, in the event that parking spaces are guaranteed to be made available for lease to individual market rate dwelling units, at least one (1) parking space shall be made available for lease by each ADU and/or WDU in the development.

Notwithstanding the foregoing, the Applicants reserve the right to enter into a separate binding written agreement with Fairfax County as to the terms and conditions of the administration of the WDUs following approval of this Application. Such an agreement shall be on terms mutually acceptable to both the Applicants and Fairfax County and may occur after the approval of this Application. Neither the Board of Supervisors nor Fairfax County shall be obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the WDUs shall be administered solely in accordance with such an agreement and the provisions of this Proffer as it applies to WDUs shall become null and void. Such an agreement and any modifications thereto shall be recorded in the land records of Fairfax County.

51. Non-Residential Contribution for Workforce Housing. For all non-residential development, excluding ground level commercial retail/services and public uses, the Applicants shall select, within their sole discretion, one of the following two options for contributing toward the provision of affordable and/or workforce housing within Tysons Corner. These contributions shall be made to the Board of Supervisors, be deposited in a specific fund to be used solely for this purpose within Tysons Corner and shall be payable at the time of issuance of the initial Non-RUPs for office buildings or the hotel on the Property, excluding any ground level retail/service uses and public uses. The options shall consist of either (i) a one-time contribution of \$3.00 for each square foot of GFA of office or hotel use, or (ii) an annual contribution of \$0.25 for each square foot of GFA of new office or hotel use continuing for a total of sixteen (16) years. Should the Board of Supervisors adopt new policies for non-residential affordable housing contributions in Tysons Corner, the Applicants may, within its discretion, elect to comply with these policies in lieu of the contributions described herein without the necessity of a CDPA or PCA.

PARKS AND RECREATIONAL FACILITIES

52. Publicly Accessible Parks. The Applicants shall provide a variety of park space on and adjacent to the Property that will be open and accessible to the public as depicted on the

CDP. The Applicants shall retain the area(s) in fee simple and shall record public access easement(s) ensuring that the park space is open to the public for periods of time consistent with urban parks; and provide for perpetual private maintenance. The Applicants shall also work with the Fairfax County Park Authority (“FCPA”) to plan and coordinate activities and events within the publicly accessible park areas. A wayfinding and signage system shall be developed in coordination with FCPA at the time of FDP and site plan approval and installed by the Applicants. The construction of the publicly accessible parks shall occur in phases commensurate with the development of the Property as shown on the Phasing Sheets. The following publicly assessed parks shall be provided as generally shown on the CDP:

- A. Metro Plaza – A street level park of approximately 0.73 (for Option 1 on Sheet L-4.1) to 0.84 acres (for Option 2 on Sheet L-4.2) located adjacent to the Metro Station escalator pavilion at the corner of Leesburg Pike and Station Place.
- (i) The Applicants shall provide interim improvements to the Metro Plaza as shown on Sheet L-8.1 of the CDP. These interim improvements shall include an extension of the paving installed by MWAA and/or enhanced paving, benches, bike racks and landscaping and may include the provision of interim “placemaking” uses, such as pop-up retail uses (temporary Retail Use establishments), on the Property immediately adjacent to the Metro Plaza. Said “pop-up” retail may be housed in temporary buildings such as storage/shipping containers or may be food trucks, or a combination thereof. Any temporary Retail Use establishments shall be tastefully appointed and well maintained. The plaza improvements shall be provided within six (6) months of the Applicants' receipt of title for 2013 Tax Map 29-3 ((1)) part 71A, agreement from the property owner of the remainder of 2013 Tax Map 29-3 ((1)) 71A to provide such improvements on the remainder of Parcel 71A, and receipt of all requisite approvals and permits.
 - (ii) The Applicants shall also provide permanent improvements to the Metro Plaza Park. Those improvements shall include hardscaping, landscaping, bike racks and, seating, with a water feature and WMATA public art piece as focal elements as conceptually shown on Sheet L-6.1A, contingent on agreements with WMATA, the property owner of the remainder of 2013 Tax Map 29-3 ((1)) 71A and VDOT. Space and requisite utility connections in accordance with FCDOT specifications (electric and telecommunications) shall also be provided for a multi-modal commuter information kiosk; said kiosk to be provided by others. Should Center Street be built in accordance with the *Interim Option #2* alignment, the Metro Plaza improvements shall be provided as conceptually shown on Sheet L-6.1B. More specific details shall be determined at time of FDP approval for Building A or B, whichever shall be approved first. The Metro Plaza shall be constructed prior to the issuance of the initial RUP or Non-RUP for Building A or B, whichever shall occur first.

Applicants may install a video art display, approximately 100 feet by 40 feet in size or another size as may be determined with the FDP approval, on the façade of Building B facing and animating Metro Plaza. The purpose of the video art display shall be to provide artistic displays and not be used for commercial advertisements. Details of the video art display (including size, content, lighting and sound) shall be provided and approved with the FDP for Building B.

- B. Sky Park – An elevated public skypark of approximately 0.26 acres that provides gathering spaces with movable seating, plantings, water feature and a recreation area for bocce ball, shuffleboard and/or horseshoes or comparable amenities as conceptually shown on Sheet L-6.5. Well-marked and visible vertical transportation to the Skypark shall include staircases and glass elevators from both the Metro Plaza level and the Central Piazza level. Wayfinding signage to the Skypark shall be provided from Metro Plaza and Central Piazza. Any private area at the skypark level serving the adjacent uses shall be in addition to the approximate 12,171 square feet of public park space and shall be clearly defined. More specific details, including identification of wayfinding signage locations, shall be determined at time of FDP approval for Building A with construction of the skypark provided prior to the issuance of the first RUP or Non-RUP for Building A.
- C. Central Piazza – A street level park of approximately 0.12 acres to be located at the intersection of Viale Centrale and Tysons Central Street. Designed as an urban plaza where employees, residents, hotel and retail patrons meet, greet and interact, the park will include hardscaping, specialty landscaping, seating, and a water feature with sculptural elements or similar focal element as conceptually shown on Sheet L-6.6. More specific design details for the Central Piazza shall be determined at time of FDP approval for Building A, B, or C, whichever shall be approved first. Construction of the Central Piazza shall occur prior to the issuance of the first RUP or Non-RUP for Buildings A, B and C, whichever shall occur first, although the first two of such buildings to be built may incorporate some interim conditions in the piazza as determined at the time of FDP to avoid major reconstruction with the construction of the last of Buildings A, B and C to be built. Such interim conditions shall be shown on the FDPs for the applicable buildings.
- D. Corner Park - A street level urban park of approximately 0.31 acres to be located in the southeast corner of the Property between Building F and Leesburg Pike. Contingent on agreement with the Commonwealth of Virginia and VDOT, the urban park shall include lawn panels, hardscape and landscape areas, a decorative stone wall and benches as conceptually shown on Sheet L-6.4. More specific details shall be determined at time of FDP approval for Building F. The Corner Park shall be constructed prior to the issuance of the first RUP or Non-RUP for Building F, unless the alternate grid of streets shown on Sheet C-6A is implemented, in which case the Applicants' obligation to provide the Corner Park shall be null and void.

- E. Clyde's Park— A park of approximately 0.40 acres to be located between Buildings D and E. The park shall include walkways and landscape areas, an interactive water fountain, a multi-purpose lawn, playground, climbable sculpture, exercise station and a dog park as conceptually shown on Sheet L-6.3. Any private areas serving the adjacent uses shall be clearly defined. The park or portions of the park may be closed for up to 24 days per year for private events associated with Buildings D or E.

An interim design of the Clyde's Park is provided on Sheet L-6.2; this design would be implemented if Building D or E is constructed prior to the access being provided from Center Street or Tysons Central Street. More specific details shall be determined at time of FDP approval for the first of Buildings D or E to be approved. Construction of the permanent Clyde's Park shall occur prior to the issuance of the first RUP or Non-RUP for Buildings D or E, whichever occurs last.

- F. The Pocket Park— A vest pocket park of approximately 0.05 acres designed with lawn, landscaping and seatwalls with engraved game boards as conceptually shown on Sheet L-6.4. More specific details shall be determined at time of FDP approval for Building D and construction of the Pocket Park shall occur prior to the issuance of the first RUP or Non-RUP for Building D.

53. Amenities and Facilities for Residents. The Applicants shall provide on-site recreational facilities for the future residents of the Property. Pursuant to Paragraph 2 of Section 6-508 and Paragraph 2 of Section 16-404 of the Ordinance regarding developed recreational facilities, the Applicants shall expend a minimum of \$1700.00 per market-rate and workforce residential unit on such recreation facilities. Prior to final bond release for the Property, the balance of any funds not expended on-site, as determined by DPWES shall be contributed to the Fairfax County Board of Supervisors for the provision of recreation facilities serving Tysons Corner.

The specific facilities and amenities to be provided for each individual residential building or shared between two or more buildings shall be determined at the time of FDP approval. Amenities to be provided may include, but not be limited to:

- A. Private exterior recreational areas/courtyards to be provided on the ground level, the upper level of the parking podiums and/or the roof level, with seating areas, walking paths, specialty landscaping, lawn areas, hardscape areas, passive recreation areas, and swimming pools;
- B. Clubroom for community gatherings;
- C. Media/entertainment center; and
- D. Fitness center with exercise equipment such as stationary bikes, treadmills, weight machines, free weights, etc. and/or sports courts.

54. Athletic Field Contribution. To address the Comprehensive Plan's recommendations regarding the provision of athletic fields in Tysons Corner, the Applicants shall provide a contribution to the Fairfax County Board of Supervisors for the development of athletic fields in Westgate Park or acquisition and development of athletic fields elsewhere serving the Tysons area. The Applicants may elect to make contributions in accordance with the following options:

A. Contribute a fixed sum for one or more buildings on or before December 31, 2015. The fixed contribution for each building as set forth below shall not be subject to adjustment pursuant to Proffer 63:

(i) Building A - \$531,000.00

(ii) Building B - \$497,000.00

(iii) Building C - \$393,000.00

(iv) Building D - \$504,000.00

(v) Building E - \$340,000.00

(vi) Building F - \$571,000.00

The above contribution amounts are based on the mid-point of the GFA range for each building as shown in the Development Tabulations. If at the time of issuance of the first RUP or Non-RUP for any building for which a discounted payment was made in 2015, it is determined that the actual GFA of such building exceeds the mid-point GFA for the building, then the Applicants shall make an additional contribution to the Board of Supervisors equal to \$2.38 per square foot of excess GFA. Such additional per square foot contribution shall be subject to adjustment pursuant to Proffer 63 but shall not apply to any public facilities including the public use described in Proffer 55.

B. For buildings that do not make a contribution prior to December 31, 2015, the Applicants shall, prior to the issuance of the first RUP or Non-RUP for the applicable building, contribute \$2.38 per each square foot based on the actual GFA in the building. This contribution shall not apply to any public facilities constructed in a building including the public use described in Proffer 55, but shall be subject to adjustment as described in Proffer 63.

PUBLIC FACILITIES

55. Public Facility.

A. To address the Comprehensive Plan's recommendations regarding the provision of public facilities in Tysons Corner, the Applicants shall design, permit, construct and make available for use by Fairfax County or its designee space consisting of approximately 5,400 rentable square feet on the first floor at the northwest corner

of Building C, at no cost to the County to house a public/community use which may include educational facilities, institutions of higher education, museums, art galleries/studios, theatres, cultural centers, indoor recreational activities, County or State offices or other uses mutually agreed upon by the Applicants and the County (the "Public Use Space"). The Public Use Space shall be constructed by the Applicants as a shell with interior improvements as follows:

(i) Core and Shell Obligations – Public Use Space

a. General

- 1) Demising walls necessary to form the space
- 2) Storefront or ribbon windows along the exterior perimeter of the space
- 3) Egress stair and egress stair finishes
- 4) Elevator shaft for the future private elevator to the second floor
- 5) Exterior entry door – storefront type with glass in accordance with building's standard design retail storefront
- 6) Door for secondary means of egress

b. Structural

- 1) Reinforced concrete structure
- 2) Slab to slab height of +/- 16'-0".
- 3) Loading capacity of 80 psf live + 20 psf partition = 100 psf total load

c. Core

- 1) Men's and women's restrooms to meet IBC codes including all plumbing fixtures, finishes, toilet partitions, toilet accessories, etc., to provide a complete and functioning set of restrooms on each floor
- 2) Water fountains in accordance with IBC codes
- 3) Gypsum board installed on all the Public Use Space tenant side of all restroom and stairwell core walls, taped and finished ready for paint
- 4) Gypsum board installed on the exterior walls below and above the exterior windows
- 5) Adjustable 1" horizontal metal mini-blinds installed at the vision glass of the exterior windows
- 6) Fire alarm devices and exit signage at the emergency exit stairs and the main entrance
- 7) Code mandated signage

d. Base Building Plumbing

- 1) Domestic hot and cold water piping and sanitary piping for the restrooms
 - 2) All fixtures for the typical floor restrooms
- e. Heating, Ventilation and Air Conditioning ("HVAC") system -The base building HVAC system has not yet been designed and but is expected to include the following:
- 1) Roof mounted cooling tower providing condenser water to an air handler(s) in the space
 - 2) Supply duct loop
 - 3) VAV Boxes complete with all thermostats/sensors, control wiring and DDC control boards are stocked on the floor
 - 4) Provision for outside air to meet ASHRAE standards
 - 5) An Energy Management System to monitor and control mechanical equipment functions for the entire building from a remote location. System will be managed and controlled by the Building Engineer
 - 6) Metering equipment to meter the condenser water usage
- f. Fire and Life Safety
- 1) Sprinkler mains designed at a ratio of 1 head per 100 square feet. Laterals and sprinkler heads (heads are installed upright in the shell space) will be installed at code minimums but not less than a ratio of 1 head per 225 SF
 - 2) Fire Alarm System -A complete system as required for the building to obtain a core and shell occupancy permit
- g. Electrical System
- 1) 3-phase 4-wire 277/480 volt main service
 - 2) Electrical closet to include:
 - a) High voltage panels to power the lights
 - b) Low voltage panels to provide for receptacle loads
 - c) Emergency power circuits, risers and connections for lights, security and fire alarm system
 - 3) Generator: A base building emergency generator to provide power to life-safety systems and other legally required stand by systems only. The Public Use Space will not be permitted to place circuits for its equipment or loads on the emergency generator.
 - 4) Metering equipment to separately meter the electrical usage for the Public Use Space
- (ii) Interior Improvements Fit-Out Allowance - Public Use Space

All space fit-out with the exception of the Core and Shell Obligations is anticipated to include the following, subject to the public/community use design:

- a. Access Control System, if any
- b. Gypsum board on all columns
- c. Doors and hardware
- d. Interior gypsum board partitions
- e. Acoustic ceiling grid and tile
- f. Floor coverings, e.g. carpet & base, VCT
- g. Wall finishes and paint
- h. Interior signage beyond code required signage
- i. HVAC
 - 1) Installation of Applicant provided VAV boxes including but not limited to the following:
 - a) Main tap, balancing damper and ductwork to the VAV box
 - b) Connection of the automatic temperature controls to the base building system
 - c) Air Balance
 - d) Any duct downstream of the VAV box, flex duct and diffusers
- j. Fire and Life Safety
 - 1) Turning sprinkler heads down, head relocation and additional heads necessary to meet the public/community use's space layout
 - 2) Fire Alarm devices within the Public Use Space
- k. Electrical
 - 1) Lighting fixtures
 - 2) Receptacles and other power connections
 - 3) Communications and data conduits and infrastructure
 - 4) Communications and data wiring and equipment

The design, construction and permit costs of the interior improvements shall not exceed \$100.00 per rentable square foot. Should the Public Use Space tenant

design the interior improvements such that the cost of design, permits and construction is greater than \$100.00 per rentable square foot, the Public Use Space tenant shall either 1) cause the space to be redesigned to a cost that does not exceed the \$100.00 per rentable square foot or 2) reimburse the Applicant the difference between the actual cost and the \$100.00 per rentable square foot. Should the public/community use design the interior improvements such that the cost of design, permits and construction is less than the \$100.00 per rentable square foot allowance, the remaining balance of the allowance may be used by the public/community use to purchase furniture, fixtures and equipment ("FF&E") for the Public Use Space. The Public Use Space shall be made available for a period of fifty (50) years rent-free. Operating costs exclusive of real estate taxes, if any, associated with the Public Use Space shall be abated for a period of ten (10) years. Following the ten (10) year abatement period, operating costs for the Public Use Space shall be the responsibility of the occupant of the Public Use Space. The Applicants agree to separately meter or sub-meter water and electricity for the Public Use Space. Up to six (6) parking spaces within the garage of Buildings B and C will be made available for the Public Use Space at market rates. Said Public Use Space shall be made available to the County prior to the issuance of a RUP or Non-RUP for more than 100,000 square feet of other uses in Building C, as may be applicable, or as may otherwise be determined at FDP.

- B. In addition to the 5,400 rentable square feet on the first floor, the Applicants shall provide approximately 9,100 rentable square feet on the second floor of Building C for future expansion of the public/community use (the "Supplemental Public Use Space"). The Supplemental Public Use Space shall be designed, permitted and constructed as a cold dark shell, at no cost to the County, as follows:
- (i) Core and Shell Obligations – Supplemental Public Use Space
 - a. General
 - 1) Demising walls necessary to form the space
 - 2) Storefront or ribbon windows along the exterior perimeter of the space
 - 3) Egress stair and egress stair finishes
 - 4) Elevator shaft for the future private elevator to the second floor
 - 5) Entry door from the garage – fire-rated hollow metal type
 - 6) Door(s) for secondary means of egress
 - b. Structural
 - 1) Reinforced Concrete structure
 - 2) Slab to Slab height of 10'-4" which will allow for an eight foot (8'-0") clear finished ceiling height

- 3) Loading capacity of 80 psf live + 20 psf partition = 100 psf total load
- c. Base Building Plumbing
- 1) Domestic hot and cold water piping at the demising partition for connection by the Public Use Space tenant for the future restrooms and other plumbing fixtures
 - 2) Sanitary piping below the slab for the future restrooms
- d. Fire and Life Safety
- 1) Sprinkler mains designed at a ratio 1 head per 100 square feet; laterals and sprinkler heads (heads are installed upright in the shell space) installed at code minimums for storage
 - 2) Fire Alarm System - a complete system as required for the building to obtain a core and shell occupancy permit
- e. HVAC system
- 1) Condenser water supply and return piping sized to meet the needs of the Supplemental Public Use Space; the piping will be stubbed through the demising wall at a location to be determined
 - 2) Provision for the connection to an outside air supply system
 - 3) Provision for the connection of the future HVAC equipment to the building energy management system
- f. Electrical System
- 1) Meter base and main disconnect in the main electrical room to serve the space
 - 2) Conduit from the main electrical room to the space

The Supplemental Public Use Space shall be made available to Fairfax County or its designee upon one (1) year written notice to the Applicants and verification that the public/community use can, and will, complete the interior fit out of, and occupy, the Supplemental Public Use Space. The Supplemental Public Use Space shall be made available rent-free for a period that is co-terminus with the Public Use Space. Operating costs and real estate taxes, if any, for the Supplemental Public Use Space shall be the responsibility of the occupant of the Supplemental Public Use Space. The Applicants agree to separately meter or sub-meter water and electricity for the Supplemental Public Use Space. Until such time as the Applicants receive notice of the intent to fit out and occupy the Supplemental Public Use Space, the space shall be used by the Applicants or other users for storage.

56. Public School Contribution. Per the Residential Development Criteria Implementation Motion adopted by the Board of Supervisors on September 9, 2002, and revised July, 2006, the Applicants shall contribute \$9,378.00 per expected student (based on a ratio of 0.087 students per residential unit) to the Fairfax County School Board to be utilized for capital improvements to schools that any students generated by the Property will attend. Such contribution shall be made prior to the issuance of the first RUP for each residential building and shall be based on the actual number of dwelling units built in each building.

If, prior to site plan approval for the respective residential buildings, Fairfax County should modify, on a county-wide basis, the expected ratio of students per subject multi-family unit or the amount of the contribution per student, the amount of the contribution shall be modified for that building to reflect the then current ratio and/or contribution. This contribution is not subject to the provisions of Proffer 63. If the County should decrease the ratio or contribution amount, the amount of the contribution shall be decreased to reflect the current ratio and/or contribution.

STORMWATER MANAGEMENT

57. Stormwater Management. Stormwater Management ("SWM") measures for the Property shall be designed to protect receiving waters downstream of Tysons Corner by reducing runoff from impervious surfaces using a progressive approach. This progressive approach shall, to the maximum extent practicable, subject to the determination of DPWES and DPZ, retain on-site and/or reuse the first inch of rainfall. Proposed SWM and Best Management Practice ("BMP") facilities shall follow a tiered approach as identified by the County which may include infiltration facilities (where applicable), rainwater harvesting/detention vaults, runoff reducing and other innovative BMPs.

Plans submitted subsequent to this Rezoning shall identify the use of certain Low Impact Development ("LID") techniques that will aid in runoff volume reduction and promote reuse throughout the site. As a part of the LID techniques proposed, the Applicant may provide green roofs both intensive and/or extensive, bio-retention (traditional and urban) areas, soil amendments, dry swales, pervious hardscapes/streetscapes, and infiltration.

Additionally, the SWM facilities shall be designed to accommodate not just the pre-developed (existing) peak release rates, but also strive to preserve and/or improve the pre-developed (existing) runoff volumes and reduce pollutant runoff as contemplated within the stormwater management-related credits of the project's registered version, or the most current version, of the U.S. Green Building Council's applicable Leadership in Environmental Education and Design (LEED[®]) rating system (e.g., for LEED-NC 2009, the Stormwater Design-Quantity Control and Stormwater Design-Quality Control credits [Sustainable Sites 6.1 and 6.2]). The above noted SWM Facilities shall be designed, to the maximum extent practicable, to meet the requirements of the stormwater management-related credits of the project's registered version or the most current version of the U. S. Green Building Council's applicable LEED rating system for each building/phase of the development based upon the LEED Boundary identified with each building/phase.

- A. At the time of each FDP, the Applicant shall provide calculations for that phase showing the proposed volume reductions and shall work cooperatively with DPWES and DPZ to ensure that the stormwater management measures that would be sufficient to meet the requirements of the aforementioned LEED credits will be provided and that the first inch of rainfall will be retained or reused to the maximum extent practicable. Supporting information shall be included, as part of each FDP submission, that is of sufficient detail, subject to DPWES's determination in coordination with the Environment and Development Review Branch of DPZ, to demonstrate the viability of the proposed stormwater management strategy for the area subject to the FDP. This information shall include the following:
- (i) For any BMP involving infiltration of water into the ground, soil testing information documenting that the soil will be able to support the proposed infiltration measure(s).
 - (ii) For any measure involving storage and reuse of stormwater runoff, documentation supporting assumed levels of water usage.
- B. The requirements of Paragraph B may be met on an individual building basis (to include consideration of any associated parking, roadway and/or courtyard areas) or be based upon the total area of the Property. Extended detention facilities and extended release techniques may be used to augment the proposed volume reductions. It is further understood that interim or temporary SWM and BMP measures may be required during any interim phase of the Proposed Development.
- Each FDP shall include the location and preliminary design of the SWM facilities including the access points to underground vaults. Access points, detailed at the time of FDP, shall be located outside of the landscape amenity panel and sidewalk zone of the streetscape.
- C. With each subsequent site plan, the Applicant shall provide refined calculations illustrating conformance with the proposed volume reductions shown on the FDP. The specific SWM facilities shall be determined at the time of site plan, and as may be approved by the DPWES. While it is anticipated that compliance with the goal of retaining and/or reusing the first inch of rainfall and meeting the requirements of the aforementioned LEED credits will be confirmed at site plan by utilizing the proposed retention credits identified by the County as part of its stormwater spreadsheet, the Applicant reserves the right to utilize any combination of LID measures (existing and future) to meet this goal, subject to the review and approval of DPWES. Similarly, if all other County suggested stormwater alternatives have been attempted, the Applicant reserves the right to over detain the runoff from a one-inch rainfall to a release rate that mimics that of a "good" forested condition.

Where it may be the Applicant's intent to use a rainwater harvesting system ("RWHS") for stormwater credit, variations in reuse water demand may create fluctuations in draw down of the RWHS tank(s). If storage time will exceed 10 days, due to seasonal variation in demand, the Applicant shall have the right to discharge excess volumes off site during non-rainfall periods in a manner and at release rates as allowed by the PFM or as approved by the Director of DPWES. To the extent practicable, such discharges shall mimic release rates from a good forested condition for a significant majority of rainfall events, and/or excess volume shall be directed to other facilities using a "treatment train" approach, if possible, as approved by the Director of DPWES. If for any reason the designed dedicated end use(s) becomes unavailable because of some change, the Applicant shall provide an approved alternative end use or install a properly designed BMP treatment system to achieve runoff reduction and treatment of the runoff.

58. Tree Replacement. As shown on the CDP, the Applicants are requesting a modification of PFM Section 12-0505.6B to allow for trees located above any proposed percolation trench or bio-retention area to count toward the 10-year tree canopy requirement. In the event that any of the said trees may need to be removed for maintenance or repair of those facilities, the Applicants shall replace removed trees as determined by the UFMD to sustain the 10-year canopy UFMD to sustain the 10-year canopy.

MISCELLANEOUS

59. Tree Preservation and Planting Fund Contribution. At the time of site plan approval for the first building on the Property, the Applicants shall make a one time contribution of \$4,200.00 to the Fairfax County Tree Preservation and Planting Fund.
60. Metrorail Tax District Buyout for Certain Residential Uses. At least sixty days prior to recording any residential condominium documents that would change the use of all or any portion of the Property that either i) is zoned to permit multi-family residential use but is not yet used for that purpose or ii) from use as a multi-family residential real property that is primarily leased or rented to residential tenants or other occupants by an owner who is engaged in such a business, in either case therefore taxable for purposes of the now existing Phase I Dulles Rail Transportation Improvement District (the "Phase I District") to a use that is not subject to the Phase I District tax, the Applicant shall provide a written notice to the Director of the Real Estate Division of the Fairfax County Department of Tax Administration advising that the Applicant intends to record such condominium documents for that portion of the Property. Prior to recording the condominium documents, the Applicant shall pay to Fairfax County a sum equal to the then-present value of Phase I District taxes estimated by the County to be lost as a result of that change in use.
61. Condemnation Procedures. The development of the Property in accordance with these Proffers may require the acquisition of property, rights-of-way and/or easements from parcels that are not part of the Property (collectively referred to as "Off-Site Parcels"). The Applicants shall use its good faith efforts and offer a reasonable fair market value for

said property, right-of-way and/or easements. In the event the Applicants are not able to acquire the property, rights-of way and/or easements from Off-Site Parcels necessary to fulfill the obligations described herein, the Applicants shall demonstrate its efforts in writing and submit a written request to Fairfax County to acquire the property, rights-of way and easements by means of its condemnation powers. This Proffer shall not apply to the roadway license associated with 2013 Tax Map 29-3 ((1)) 69 as described in Proffer 28B.

In conjunction with any such request, the Applicants shall forward to the appropriate County agency: (a) plat, plans and profiles showing the necessary property, rights-of way and/or easements to be acquired; (b) an appraisal, prepared by a MAI (Member of the Appraisal Institute) independent appraiser approved by the County, of the value of the property, rights-of way and/or easements to be acquired and of all damages, if any, to the residue of the Off-Site Parcels; (c) a sixty (60) year title search certificate of Off-Site Parcels from which the property, rights-of way and/or easement is to be acquired; and (d) cash in an amount equal to appraised value of the property, rights-of-way and easements and of all damages to the residue of the Off-Site Parcels; and (e) a copy of written offers and counteroffers and evidence of owners refusal of such offers and counteroffers. In the event the Owner of the Off-Site Parcels are awarded more than the appraised value of the Off-Site Parcels and of the damages to the residue in a condemnation suit, the Applicants shall pay the amount of the award in excess of cash amount to the County within fifteen (15) calendar days of said award. It is understood that the Applicants upon demand shall pay all other costs incurred by the County in acquiring the easements to the County.

Prior to and during any potential condemnation proceedings, the Applicants, its successors and assigns, shall be permitted, at its own risk, to submit, process and receive approval of the Site Plan and related subdivision plat(s), easement plats, development permits, building plan approvals and building permits for other portions of the Property.

62. Zoning Administrator Consideration. Notwithstanding the foregoing, upon demonstration that despite diligent efforts or due to factors beyond the Applicants' control, proffered improvements such as, but not limited to, transportation, publicly-accessible park areas, athletic fields, trail connections, and offsite easements, have been delayed (due to, but not limited to, an inability to secure necessary permission for utility relocations, VDOT approval for traffic signals, necessary easements and/or site plan approval, etc.) beyond the timeframes specified, the Zoning Administrator may agree to a later date for completion of these proffered improvement(s).
63. Adjustment in Contribution Amounts. Except for contributions to the Tysons Grid of Streets Transportation Fund, the Tysons-wide Transportation Fund, and public schools, all monetary contributions specified in these proffers shall adjust on a yearly basis from the base year of 2014 and change effective each January 1 thereafter, based on changes in the Consumer Price Index for all urban consumers (not seasonally adjusted) ("CPI-U"), both as permitted by Virginia State Code Section 15.2-2303.3.

64. Advanced Density Credit. Advanced density credit is reserved consistent with the provisions of the Fairfax County Ordinance for all eligible dedications described herein or as may be required by Fairfax County or VDOT.
65. Severability. Pursuant to Section 18-204 of the 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.
66. Successors and Assigns. These Proffers will bind and inure to the benefit of the Applicants and their successors and assigns. Each reference to “Applicants” in this proffer statement shall include within its meaning and shall be binding upon Applicants’ successor(s) in interest and/or the owners from time to time of any portion of the Property during the period of their ownership. Once portions of the Property are sold or otherwise transferred, the associated proffers become the obligation of the purchaser or other transferee and shall no longer be binding on the seller or other transferee. With respect to any portion of the Property subject to a COA, the COA shall have liability for performance of any applicable proffers, but not the individual condominium owners.
67. 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.

[SIGNATURES BEGIN ON NEXT PAGE]

CO-APPLICANT/AGENT FOR OWNER OF 29-3 ((1))
65/AGENT FOR CONTRACT PURCHASER OF TAX
MAP 29-3 ((1)) 71A pt.; CONTRACT PURCHASER OF
TAX MAP 29-3 ((1)) 71, 72, 73, 76

NVCOMMERCIAL INCORPORATED

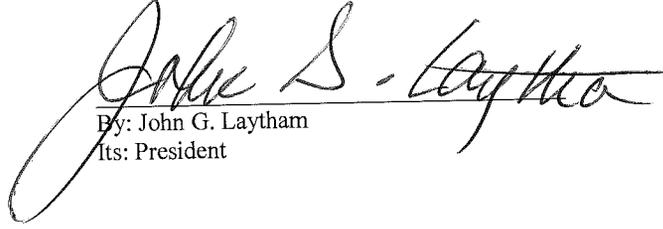
A handwritten signature in black ink, appearing to read "Stephen M. Cumbie", written over a horizontal line.

By: Stephen M. Cumbie
Its: President

[SIGNATURES CONTINUE ON NEXT PAGE]

CO-APPLICANT/TITLE OWNER OF TAX MAP
29-3 ((1)) 75, 78A

CLYDE'S REAL ESTATE GROUP, INC.



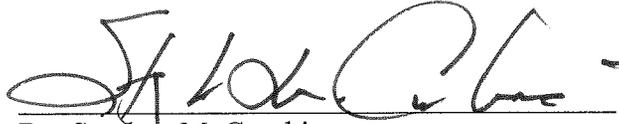
By: John G. Laytham
Its: President

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER OF TAX MAP 29-3 ((1)) 65

TYSONS ONE, LLC

By: NVCommercial Incorporated, its Manager

A handwritten signature in black ink, appearing to read "Stephen M. Cumbie", written over a horizontal line.

By: Stephen M. Cumbie

Its: President

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER OF TAX MAP 29-3 ((1)) 71

TYSONS PROPERTIES, L.L.C.

By: Lassen Family Limited Partnership, its sole
manager/member

By: Sellica Corporation, its sole general partner

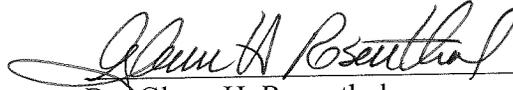
A handwritten signature in cursive script that reads "Lenora R. Lassen". The signature is written in black ink and is positioned above a horizontal line.

By: Lenora R. Lassen
Its: President

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER OF TAX MAP 29-3 ((1)) 72

LEESBURG PIKE INVESTORS, L.L.C.

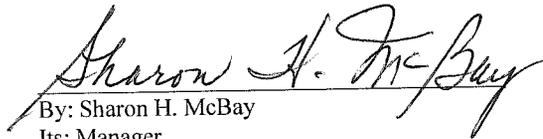
A handwritten signature in cursive script, reading "Glenn H. Rosenthal", is written over a solid horizontal line.

By: Glenn H. Rosenthal
Its: Managing Member

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TITLE OWNER OF TAX MAP 29-3 ((1)) 73

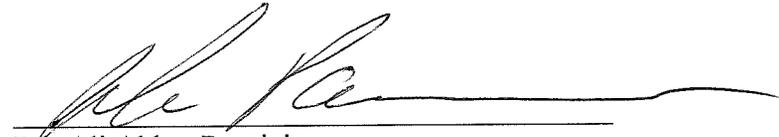
MCBAY TYSONS, L.L.C.


By: Sharon H. McBay
Its: Manager

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER OF TAX MAP 29-3 ((1)) 76

8334 LEESBURG PIKE, LLC

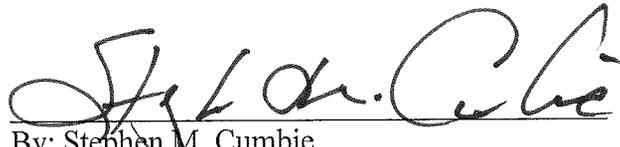
A handwritten signature in black ink, appearing to read 'Ali Akbar Parvizia', is written over a horizontal line. The signature is fluid and cursive, extending to the right beyond the end of the line.

By: Ali Akbar Parvizia
Its: Managing Member

[SIGNATURES CONTINUE ON NEXT PAGE]

CONTRACT PURCHASER OF TAX MAP 29-3 ((1)) 71A
PT.

TYSONS CENTRAL LLC

A handwritten signature in black ink, appearing to read "Stephen M. Cumbie", written over a horizontal line.

By: Stephen M. Cumbie
Its: Administrative Member

[SIGNATURES CONTINUE ON NEXT PAGE]