

PROFFERS
MidAtlantic Realty Partners, LLC

RZ 2011-MV-031

October 4, 2012

Pursuant to Section 15.2-2303(a), *Code of Virginia*, 1950 as amended and subject to the Board of Supervisors approving a rezoning to the PRM District, for property identified as Tax Map 83-1 ((1)) 34C (the "Application Property"), the Applicant proffers for themselves, their successors and assigns the following conditions:

1. Development Plan.
 - A. Development of the Application Property shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan ("CDP/FDP") prepared by Urban, Ltd., which contains Sheets 1-35, and which is dated June, 2011 as revised through August 17, 2012.
 - B. Notwithstanding that the CDP/FDP is presented on Sheets 1-35, it shall be understood that the CDP shall be the entire plan shown on Sheets 2, 3, 16 - 21 relative to the general location of the points of access, the maximum number and type of dwelling units, the general amount and location of open space, the general location of the limits of clearing and grading, and the general location and arrangement of the buildings and parking garages and phasing. The Applicant has the option to request a FDPA for elements other than the CDP elements from the Planning Commission for all or a portion of the CDP/FDP in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance with respect to the remaining elements as determined by the Zoning Administrator.
 - C. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the FDP may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layouts shown on the FDP without requiring approval of an amended FDP provided such changes are in substantial conformance with the FDP as determined by the Zoning Administrator and do not increase the total number of dwelling units, increase building height, increase surface parking, decrease the amount of open space; decrease the setback from the peripheries; or decrease landscaping.
 - D. The CDP/FDP provides for interim use of the residential and commercial portions of the Application Property as open space plazas, should the development be phased (the "Phased Open Space Areas"). Nothing shall preclude the request for or potential approval of temporary uses, such as farmer's markets, recreational activities, art shows or community

gatherings on the Phased Open Space Areas shown on Sheets 18 and 20 of the CDP/FDP, as may be permitted in the PRM District and upon issuance of a Temporary Use Permit by the Zoning Administrator. No permanent structures or permanent booths shall be associated with any temporary use that may be permitted by the Zoning Administrator.

- E. The existing use on the Application Property shall be permitted to continue, in its current condition, until such time as a site plan is approved to implement any portion of the development approved with this Application and the existing structure is demolished.
- F. Approximately 6,000 square feet of the office building's ground floor shall be provided for ancillary commercial uses such as retail, restaurant and/or service uses. As an option, this space may be used for offices if demonstrated to the satisfaction of the Zoning Administrator that diligent efforts have been made to lease the space and that those efforts have been unsuccessful. If so, then the office use of this area must provide for street activation in terms of entries and other architectural features to the satisfaction of the Zoning Administrator.

2. Transportation.

- A. Pedestrian Facilities. The Applicant shall provide a comprehensive sidewalk system within the developed portions of the Application Property as generally shown on the CDP/FDP, including the widening sidewalks along Huntington Avenue. Construction of sidewalks shall be concurrent with development activity on the Application Property.
- B. Bicycle Racks. The Applicant shall provide bicycle racks in the vicinity of the front door of the residential building sufficient to store a minimum of five (5) visitor bicycles. The Applicant shall provide storage for an additional 30 bicycles within the residential parking structure for use by the residents, and additional storage shall be provided within the commercial parking structures for use of the employees. The design, style and installation of the bike racks and bicycle storage shall be approved by Fairfax County Department of Transportation ("FCDOT") at time of site plan approval. Bicycle racks shall be installed prior to the issuance of the first Residential Use Permit ("RUP").
- C. Use of Garages. Required parking spaces within the structure garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles and bicycles). The Applicants shall provide green recharging stations in all three parking garages.
- D. Huntington Avenue Crosswalk. The Applicant shall construct a crosswalk across Huntington Avenue, perpendicular from the Application Property's

southeastern corner, as shown on the CDP/FDP prior to the issuance of the first RUP or non-residential use permit ("NonRUP"), whichever occurs first. Off-site sidewalk and accessible connections shall be provided to facilitate the crosswalk's function, if permitted by the Virginia Department of Transportation ("VDOT"). Pedestrian heads shall be installed and existing traffic signals shall be modified, if permitted by VDOT.

- E. Metroview Parkway Crosswalk. The Applicant shall construct a crosswalk across Metroview Parkway, perpendicular from the Application Property's eastern property line and connecting to the southwestern corner of Metroview Parkway and Midtown Avenue, as shown on the CDP/FDP prior to the issuance of the first RUP or NonRUP, whichever occurs first. Off-site sidewalk and accessible connections shall be provided to facilitate the crosswalk's function, if permitted by VDOT.
- F. Extension of Left Turn Lane from Huntington Avenue onto Metroview Parkway. The existing 190 foot long left turn lane and 130 foot long taper going eastbound on Huntington Avenue shall be extended by the Applicant to a 340 foot long turn lane with 100 foot long taper. This extension shall be constructed in accordance with VDOT standards and shall be available for public use prior to the issuance of the 150th RUP for the residential buildings or NonRUPS for a minimum of 150,000 GSF within the commercial building(s), whichever comes first. The Applicant shall request acceptance of this extended left turn lane by VDOT, and shall diligently pursue its acceptance by VDOT; however, VDOT acceptance shall not be required prior to the full occupation of the Application Property, but shall be required prior to the full release of any bond or escrow that may be held for that extension.
- G. Bike Lane on Huntington Avenue. Funds in the amount of \$90,000.00 shall be escrowed with the Department of Public Works and Environmental Services ("DPWES") by the Applicant prior to site plan approval in order to allow the future construction of a 5-foot wide bike lane, by others, within the existing right-of-way along the Application Property's Huntington Avenue frontage.
- H. Interparcel Connection. An interparcel connection shall be permitted at no cost to the Applicant along the western property line of the Application Property at such time as the adjacent parcel is redeveloped. The developer of the adjacent parcel shall be entirely responsible for the cost to provide this interparcel connection, unless otherwise privately agreed upon by the owners of the two properties. This interparcel connection shall be in a location that is agreeable to both the Applicant and VDOT.
- I. Delays. Should any of the transportation improvements described herein be delayed due to circumstances beyond the Applicant's control, later

dates for compliance may be permitted as determined appropriate by the Zoning Administrator.

J. Transportation Contributions.

- (1) Prior to site plan approval for the first building (for the purposes of this Proffer 2J, the two residential buildings shall be considered one building), the Applicant shall contribute \$183,907 for interchange improvements for Telegraph Road at Huntington Avenue and \$39,033 for interchange improvements for Telegraph Road at North Kings Highway or other transportation improvements within 1 mile of the Application Property.
- (2) Prior to the issuance of the first RUP or NonRUP for the second building, the Applicant shall contribute another \$183,907 for interchange improvements for Telegraph Road at Huntington Avenue and \$39,033 for interchange improvements for Telegraph Road at North Kings Highway or other transportation improvements within 1 mile of the Application Property.
- (3) Prior to the issuance of a building permit for the third building the Applicant shall contribute \$300,000 toward the design and/or construction of the interchange of Huntington Avenue and Richmond Highway. In the event that this interchange is removed from the Comprehensive Plan or is constructed by others, then the contribution shall be directed toward other transportation improvements within 1 mile of the Application Property.

- K. The contributions noted above shall escalate on a yearly basis from the base year of 2013 and shall 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.

3. TDM Strategies.

- A. Transportation demand management ("TDM") strategies, as detailed below, shall be utilized by the Applicant and/or its successors or assigns to reduce vehicular trips generated by residents and employees of the Application Property during peak hours.
- B. Mass transit, ride-sharing, and other transportation strategies shall be utilized to reduce baseline trips generated from the Application Property during peak hours by a minimum of 30%. For purposes of this proffer, the baseline number of trips from which such reductions are measured shall be determined using the trip generation rates data published by the Institute

of Transportation Engineers in the Trip Generation Manual, 8th Edition and as determined by FCDOT for a total of 390 residential dwelling units and 370,000 GSF of Office/Hotel Uses during the highest peak hour period (AM or PM) of the adjacent street, Huntington Avenue. In the event the Application Property is developed with fewer than 390 residential dwelling units and 370,000 GSF of Office/Hotel/Retail Uses, then the baseline number of trips shall be calculated as if 390 residential dwelling units were constructed. Residents and employers of the Application Property shall be advised of this transportation strategy. Transportation coordination duties shall be carried out by the Property Manager, or assigns.

- C. In order to meet the trip reduction goals set forth in Proffer 3.B, a TDM Plan shall be submitted to FCDOT for approval prior to site plan approval. The TDM Plan shall be adopted and implemented prior to the issuance of the first RUP or NonRUP, whichever is first. The TDM Plan should outline the components of the TDM Plan and may be subsequently adjusted by mutual agreement between the Applicant (and subsequent UOA/HOA/COA, as applicable) and FCDOT. All adjustments shall be approved by FCDOT and will not require a Proffered Condition Amendment ("PCA"). Any changes to the TDM Plan should be noted in the Annual Report described in Proffer 3.F.
- D. The following is a list of strategies, in addition to those that may be outlined in the TDM Plan, that shall be instituted by the Owner of the Application Property prior to the issuance of the first RUP or NonRUP, whichever is first:
 - (1) Designate an individual (such as property management staff and/or residential association representative) to act as the transportation coordinator ("TC") for the Application Property, who shall be responsible to implement the TDM strategies for the Application Property, with on-going coordination with FCDOT. This individual may, if appropriate, be the same person for the commercial and residential structure. The Applicant shall provide written notice to FCDOT within 10 days of the designation of the TC and thereafter within 10 days of any change in said designation.
 - (2) Provide Metro maps, schedules, and forms; information on the Fairfax County Ride Share Program; and information on other relevant transit options available to owners/tenants either in a newsletter to be published on a regular basis and not fewer than four (4) times per calendar year in the event that a website for the Application Property is not established. If the Applicant elects to establish a website for the project, then the Applicant shall provide

written notice to FCDOT of the website address and the date the site became operational and shall include links to the commuter information listed above.

- (3) Provide SmartTrip cards loaded with a minimum of \$25 to all tenants of the residential building upon their initial lease.
 - (4) Provide a business center for use by the residents of the Application Property. The business center shall include, at a minimum, access to telephone(s), computer(s), printer(s), a scanner, and high-speed internet.
 - (5) Equip all residential units on the Application Property with broadband wiring for internet access.
 - (6) Provide secure bike storage for residents and employees, sufficient to store, at a minimum, one (1) bicycle for every forty (40) required vehicle parking spaces. The design, style and installation of the bike racks and bicycle storage shall be approved by FCDOT.
 - (7) Participate in a larger Transportation Management Association should one be established for this area.
 - (8) The TDM program shall be continued by a Condominium Owners Association ("COA") in the event of a condominium conversion.
- E. One year following build-out of the Application Property and every three years thereafter or as requested by FCDOT in years when trip counts reveal that goals were not met, the Transportation Coordinator will administer a survey of residents and office workers on the Application Property. For purposes of this TDM proffer, build-out of the Application Property shall be deemed to occur upon the issuance of the last RUP for the residential building plus NonRUPS for a minimum of 292,800 GSF within the commercial building(s) (approximately 80% of the commercial building) if the residential phase is constructed first, or shall be deemed to occur upon the issuance of NonRUPs for a minimum of 366,000 GSF within the commercial building(s) and the 312th Non-RUP for the residential building (approximately 80% of the residential units) if the commercial phase is constructed first. The survey shall include, at a minimum, details regarding the number of times per week the resident commutes, the mode of transportation for commuting purposes, and his or her work destination and shall be approved by FCDOT prior to distribution.
- F. One year following build-out of the Application Property, and annually thereafter, the effectiveness of the TDM strategies shall be evaluated and

reported to FCDOT. The TC shall submit to FCDOT a report describing the previous year's TDM strategic efforts and the effectiveness of the TDM program in reaching trip reduction goals, including, as applicable, sample marketing materials, expenditures, the result of traffic counts as outlined in Paragraph G below. The report shall be submitted to FCDOT no later than April 30th of each year, unless a later date is approved by the County. The TC shall coordinate draft survey materials and the methodology for conducting traffic counts with FCDOT prior to each year's count, as applicable. If the survey is not received by April 30th, the Applicant or COA will be subject to a TDM Remedy Fund payment of \$75 per day in arrears beginning with the first day of non-payment.

- G. Concurrent with the establishment and funding of the TDM Account, the Applicant shall establish a separate, interest-bearing account referred to herein as the "TDM Remedy Fund." All interest earned on moneys deposited in the TDM Remedy Fund shall be added to the principal of the TDM Remedy Fund and used for TDM Remedy Fund purposes. Within thirty (30) days after the issuance of the first RUP for the Application Property, the Applicant shall contribute \$.20 per square foot of commercial, excluding hotel and retail, and \$.10 per square foot of residential to the TDM Remedy Fund. Moneys from the TDM Remedy Fund shall be drawn on by the Applicant/successor or COA only for purposes of immediate need of TDM funding and may be drawn upon prior to any TDM Budget adjustments.
- H. As part of the annual reporting process, the Owner of the Application Property shall measure actual trip generation of the Application Property in order to evaluate the success of meeting the trip reduction objectives set forth in subparagraph B., above.
- (1) Peak hour vehicular traffic counts shall be conducted during the highest peak traffic period (AM or PM, whichever is highest) ("Peak Hour Trips") of the adjacent street, Huntington Avenue, over two (2) days, within a maximum two (2) week period, at a time of year that reflects typical travel demand conditions (e.g., September to May - and not during holiday weeks, on Mondays or Fridays, or when public schools are not in session.)

Residents and employees shall not be notified in advance of the days or times that these counts will be taken.

The Applicant shall notify and get approval from FCDOT on the trip count methodology in advance of the dates that the counts are to be undertaken.

- (2) The results of the trip generation analyses referenced in subparagraph F., above, shall be compared to the baseline trip generation referenced in subparagraph B., above, to determine if the proffered 30% reduction of peak hour trips has been met.
- (3) In the event the traffic counts reveal that the proffered 30% peak hour trip reduction has been met, then the Applicant shall continue to implement the TDM strategies in place and no adjustments to the program or penalties are required.
- (4) If applicable, the first time traffic counts that are conducted in accord with proffer subparagraph H.1., above, reveal that the baseline trip reduction has not been met, the TC shall request a meeting with FCDOT within thirty (30) days after the completion of the traffic counts to review the results of that report and the TDM strategies then in place for the Application Property. The TC shall be responsible to design and implement a strategy that is intended to bring baseline peak hour trip reductions to the proffered percentage. The Applicant shall submit any revisions to the TDM Plan to FCDOT within thirty (30) days following this meeting.
- (5) In the event that a subsequent (second) annual traffic count conducted in accord with proffer subparagraph H.1., above, reveals that the baseline trip reductions have not been met, then the TC shall draw upon the Remedy Fund based on the following scale:

| Exceeded Trip Goals | Penalty |
|----------------------------|-------------------|
| 1% - 3% | 1% of Remedy Fund |
| 3.1% - 6% | 2% of Remedy Fund |
| 6.1% - 10% | 4% of Remedy Fund |
| Over 10% | 8% of Remedy Fund |

Monies from the Remedy Fund should be used to enhance the TDM program in order to meet the stated goals.

The TC shall request a meeting with FCDOT within thirty (30) days after the completion of the traffic counts to review the results of that report and the TDM strategies then in place for the Application Property. The TC shall be responsible to design and implement a strategy that is intended to bring baseline peak hour

trip reductions to the proffered percentage. The Applicant shall submit any revisions to the TDM Plan to FCDOT within thirty (30) days following this meeting.

- (6) If a following (third) annual traffic count is required in accord with proffer subparagraph H.1., above, reveals that the baseline trip reduction has not been met, then the TDM Remedy Fund payment described in subparagraph H.5., above, shall again be paid, and shall continue to be paid each subsequent year that trip reduction goals are not met. Each year the trip counts reveal the goals were not met, the TC shall request a meeting with FCDOT within thirty (30) days after the completion of the Trip Counts to review the results of that report and the TDM strategies then in place for the Application Property, to discuss alternative strategies to meet the proffered reduction, to discuss the appropriateness of the proffered reduction, and/or to discuss setting an alternative peak hour trip reduction (that may be less than 30%). The TC shall submit any revisions to the TDM Plan and TDM Budget to FCDOT within thirty (30) days following this meeting. FCDOT shall approve any changes to the TDM Plan prior to its implementation and without the need for a PCA.
 - I. If three (3) consecutive annual trip counts conducted in accord with subparagraph H.1, above, reveal that the trip reduction thresholds are met after build out of the Application Property as defined herein, then trip counts shall only be conducted biannually if requested by the County, or less (including elimination of this requirement) if it is determined by FCDOT that fewer counts are necessary to indicate continued compliance. Further, upon such event, only annual reports detailing the programmatic elements in place and yearly TDM expenditure assessment and/or survey results will be required.
 - J. If subsequent trip counts reveal that the trip reduction thresholds are not being met, then the annual counts, surveys, reports and penalties shall again be required as described in Subparagraphs E, F, H.1 and H.5, until such time as three (3) consecutive annual trip counts reveal that the trip reduction thresholds are met.
4. Commercial Loading Activities. All loading activities for the hotel and office buildings shall take place within the loading dock. Delivery trucks shall not be permitted to park for any length of time along Darton Lane.

5. Landscape Plan. A landscape plan shall be submitted concurrently with the first submission of any site plan for the Application Property that shows, at a minimum, landscaping in conformance with the landscape design shown on the CDP/FDP. Said plan shall be coordinated with and approved by the Fairfax County Urban Forest Management Division, DPWES ("UFMD"). Street trees along Huntington Avenue and Metroview Parkway shall be a minimum of 2 ½ - 3 inch caliper at the time of planting and shall be planted in structural cells as may be required by UFMD. These planting sites shall have a minimum of 5-6 feet open surface width, 80 square feet of open surface area, and an 8 foot wide minimum rooting area. Soil volume for Category III and Category IV trees as indicated in the Public Facilities Manual ("PFM") shall be a minimum of 750 cubic feet per tree for single trees. Other trees on-site that cannot be planted in accordance with the PFM requirements shall be planted using structural cells or similar solutions as approved by UFMD.
6. Location of landscaping shown on the CDP/FDP may be modified with the approval of UFMD, if necessary in order to provide clearance for utilities that may be located along Huntington Avenue. All street trees shall be located subject to VDOT approval so as not to interfere with required sight distance. The Applicant shall provide maintenance and replacement of landscaping as necessary.
7. Sustainable Design.
 - A. In order to promote energy conservation and green building techniques, the Applicant shall obtain Core and Shell LEED Silver Certification for the Office building.
 1. The Applicants shall include a U.S. Green Building Council ("USGBC") Leadership in Energy and Environmental Design ("LEED") accredited professional as a member of the design team. The LEED accredited professional shall work with the team to incorporate the current version, at the time of Applicant's registration, of LEED design elements into the project. At time of site plan submission, the Applicants shall provide documentation to the Environmental and Development Review Branch of the Department of Planning and Zoning ("DPZ") demonstrating compliance with the commitment to engage such a professional.
 2. The Applicants will include, as part of the site plan submission and building plan submission for any building to be constructed, a list of specific credits within the most current version, at the time of Applicants' registration, of the USGBC's Core and Shell LEED rating system or other LEED rating system determined by the USGBC that the Applicants anticipate attaining. The LEED

accredited professional will provide certification statements at both the time of site plan review and the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED Silver Core and Shell certification of the project. In addition, prior to site plan approval, the Applicant will designate the Chief of the Environment and Development Review Branch of 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.

3. Prior to building plan approval, the Applicants will execute a separate agreement and post, for each building, a "Green Building Escrow," in the form of cash or a Letter of Credit from a financial institution acceptable to DPWES as defined in the Public Facilities Manual, in the amount of \$2.00 per gross square foot for that building. This Green Building Escrow shall be in addition to and separate from other bond or escrow requirements and shall be released upon demonstration of attainment of Silver certification by the USGBC under the most current version at the time of Applicants' registration of LEED Core and Shell rating system or other LEED rating system determined by the USGBC, to be applicable to each building. The provision to the Environment and Development Review Branch of DPZ of documentation from the USGBC that each building has attained LEED Silver Core and Shell certification will be sufficient to satisfy this commitment. If the Applicants fail to provide documentation to the Environmental and Development Review Branch of DPZ demonstrating attainment of LEED Silver Core and Shell certification within two years of issuance of the first Non-RUP for office use for each building, the escrow will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives.
4. If the Applicants provide documentation to the Environment and Development Review Branch of DPZ, within two years of issuance of the first NonRUP for office use for each building, that demonstrates that LEED Silver certification has not been obtained but the building has been determined by the USGBC to fall within three points of attainment of LEED Silver certification, fifty percent (50%) of the escrow will be released to the Applicants, the other fifty percent (50%) will be released to Fairfax County and

will be posted to a fund within the County budget that supports implementation of County environmental initiatives.

5. If the Applicants provide evidence that LEED Silver Core and Shell certification has been delayed through no fault of the Applicants, this proffered time frame shall be extended by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicants or to the County during this extended time frame.
 6. All references to the U.S. Green Building Council shall apply to similar certifying agencies that are created subsequent to approval of this application, provided that the alternative certifying agency is acceptable to Fairfax County and the Applicants.
- B. In order to promote energy conservation and green building techniques, the Applicant shall obtain LEED Silver NC certification for the Hotel Building.
1. The Applicants shall include a U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design ("LEED") accredited professional as a member of the design team. The LEED accredited professional shall work with the team to incorporate the current version, at the time of Applicant's registration, of LEED design elements into the project. At time of site plan submission, the Applicants shall provide documentation to the Environmental and Development Review Branch of DPZ demonstrating compliance with the commitment to engage such a professional.
 2. The Applicants will include, as part of the site plan submission and building plan submission for the hotel, a list of specific credits within the most current version, at the time of Applicants' registration, of the USGBC's LEED Silver NC rating system or other LEED rating system determined by the USGBC that the Applicants anticipate attaining. The LEED accredited professional will provide certification statements at both the time of site plan review and the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED Silver NC certification of the project. In addition, prior to site plan approval, the Applicant will designate the Chief of the Environment and Development Review Branch of 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.

3. Prior to building plan approval, the Applicants will execute a separate agreement and post a "Green Building Escrow," in the form of cash or a Letter of Credit from a financial institution acceptable to DPWES as defined in the PFM, in the amount of \$2.00 per gross square foot for the hotel building. This Green Building Escrow shall be in addition to and separate from other bond or escrow requirements and shall be released upon demonstration of attainment of certification by the USGBC under the most current version at the time of Applicants' registration of LEED Silver NC rating system or other LEED rating system determined by the USGBC, to be applicable. The provision to the Environment and Development Review Branch of DPZ of documentation from the USGBC that the hotel building has attained LEED Silver NC certification will be sufficient to satisfy this commitment. If the Applicants fail to provide documentation to the Environmental and Development Review Branch of DPZ demonstrating attainment of LEED Silver NC certification within two years of issuance of the first NonRUP, the escrow will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives.
4. If the Applicants provide documentation to the Environment and Development Review Branch of DPZ, within two years of issuance of the first NonRUP that demonstrates that LEED Silver NC certification has not been obtained but the building has been determined by the USGBC to fall within three points of attainment of LEED Silver NC certification, fifty percent (50%) of the escrow will be released to the Applicants, the other fifty percent (50%) will be released to Fairfax County and will be posted to a fund within the County budget that supports implementation of County environmental initiatives.
5. If the Applicants provide evidence that LEED Silver NC certification has been delayed through no fault of the Applicants, this proffered time frame shall be extended by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicants or to the County during this extended time frame.
6. All references to the U.S. Green Building Council shall apply to similar certifying agencies that are created subsequent to approval

of this application, provided that the alternative certifying agency is acceptable to Fairfax County and the Applicants.

C. The Applicant shall select to certify the construction of the multifamily structure under (1) LEED NC; (2) Certification in accordance with the National Association of Home Builders (NAHB) National Green Building Certification for multi-family developments, using the ENERGY STAR[®] Qualified Homes path for energy performance, as demonstrated through documentation submitted to DPWES and the Environmental and Development Review Branch of DPZ from a home energy rater certified through the NAHB Research Center that demonstrates that the dwelling unit has attained the certification prior to the issuance of the RUP for each dwelling; or (3) qualification in accordance with ENERGY STAR[®] for Homes as determined by the submission of documentation to the Environment and Development Review Branch of DPZ from a home energy rater certified through the Residential Energy Services Network (RESNET) program that demonstrates that the dwelling unit has attained the ENERGY STAR[®] for Homes qualification prior to the issuance of the RUP for each dwelling. If LEED NC is chosen, then:

1. The Applicants shall include a U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design ("LEED") accredited professional as a member of the design team. The LEED accredited professional shall work with the team to incorporate the current version, at the time of Applicant's registration, of LEED design elements into the project. At time of site plan submission, the Applicants shall provide documentation to the Environmental and Development Review Branch of DPZ demonstrating compliance with the commitment to engage such a professional.
2. The Applicants will include, as part of the site plan submission and building plan submission for any building to be constructed, a list of specific credits within the most current version, at the time of Applicants' registration, of the USGBC's LEED NC rating system or other LEED rating system determined by the USGBC that the Applicants anticipate attaining. The LEED accredited professional will provide certification statements at both the time of site plan review and the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED NC certification of the project. In addition, prior to site plan approval, the Applicant will designate the Chief of the Environment and Development Review Branch of 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.

3. Prior to building plan approval, the Applicants will execute a separate agreement and post, for each building, a "Green Building Escrow," in the form of cash or a Letter of Credit from a financial institution acceptable to DPWES as defined in the Public Facilities Manual, in the amount of \$2.00 per gross square foot for that building. This Green Building Escrow shall be in addition to and separate from other bond or escrow requirements and shall be released upon demonstration of attainment of certification by the USGBC under the most current version at the time of Applicants' registration of LEED NC rating system or other LEED rating system determined by the USGBC, to be applicable to each building. The provision to the Environment and Development Review Branch of DPZ of documentation from the USGBC that each building has attained LEED NC certification will be sufficient to satisfy this commitment. If the Applicants fail to provide documentation to the Environmental and Development Review Branch of DPZ demonstrating attainment of LEED NC certification within two years of issuance of the first RUP, the escrow will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives.
4. If the Applicants provide documentation to the Environment and Development Review Branch of DPZ, within two years of issuance of the first RUP for residential use for each building, that demonstrates that LEED NC certification has not been obtained but the building has been determined by the USGBC to fall within three points of attainment of LEED NC certification, fifty percent (50%) of the escrow will be released to the Applicants, the other fifty percent (50%) will be released to Fairfax County and will be posted to a fund within the County budget that supports implementation of County environmental initiatives.
5. If the Applicants provide evidence that LEED NC certification has been delayed through no fault of the Applicants, this proffered time frame shall be extended by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicants or to the County during this extended time frame.

6. All references to the U.S. Green Building Council shall apply to similar certifying agencies that are created subsequent to approval of this application, provided that the alternative certifying agency is acceptable to Fairfax County and the Applicants.
8. Best Management Practices.
 - A. The Applicants shall incorporate Best Management Practices ("BMP") such as a Stormceptor system and/or Filterra devices in accordance with the PFM in order to improve water quality associated with stormwater runoff.
 - B. The Applicants shall revegetate the Resource Protection Area ("RPA") on the Application Property to the extent practicable, as generally shown on the CDP/FDP and as approved by the UFMD.
9. Exterior Lighting. In accordance with Sect. 14-900 of the Ordinance, all on-site lighting shall be directed downward and inward in order to minimize light from spilling onto adjacent properties. In order to provide maximum security, energy efficiency and quality ambient lighting, full cut-off light fixtures shall be used for all parking deck lighting, including any "wall-pack" security lighting. Upper level parking deck lighting fixtures shall not exceed a height of 12 feet, shall be sited and shielded so as not to be visible from the ground plane and to minimize glare to residential units, and shall utilize full cut-off fixtures. Interior parking garage lighting shall be sited and shielded to minimize direct visibility from the exterior of the site. Lighting for landscaping shall not utilize "up-lighting", but shall rather utilize downward-focused lighting that does not present glare or provide an overly lit environment that hinders night-time vision.
10. Noise Attenuation.
 - A. The Applicant shall provide the following noise attenuation measures as a result of the Traffic Noise Analysis prepared by Polysonics dated April 4, 2012:
 - (1) In order to reduce interior noise to a level of approximately 45 dBA Ldn, residential units fronting onto Metroview Parkway as being impacted by Metro Train noise having levels projected to be greater than 70 dBA Ldn shall employ the following acoustical measures:

Exterior walls shall have a laboratory sound transmission class ("STC") rating of at least 45. Doors and glazing shall have a laboratory STC rating of at least 35. If glazing constitutes more than 35% of an exposed façade, then the glazing shall have a STC as calculated by the acoustician. 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.

- (2) In order to reduce interior noise to a level of approximately 45 dBA Ldn, residential units onto Huntington Avenue, and residential units extending approximately half way through the residential structure located on Metroview Parkway as being impacted by highway and Metro Train noise having levels projected to be between 65 and 70 dBA Ldn shall employ with the following acoustical measures:

Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39. Doors and glazing shall have a laboratory STC rating of at least 32 unless glazing constitutes more than 35% of any façade exposed to noise levels of Ldn 65 dBA or above. If glazing constitutes more than 35% of an exposed façade, then the glazing shall have a STC as calculated by the acoustician. 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.

- (3) In order to reduce interior noise to a level of approximately 50 dBA Ldn, areas of the Office building that are impacted by Metro Train noise having levels projected to be greater than 70 dBA Ldn shall employ the following acoustical measures:

Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45. Doors and glazing shall have a laboratory STC rating of at least 35. All surfaces shall be sealed and caulked in accordance with methods approved by the ASTM to minimize sound transmission.

- (4) In order to reduce interior noise to a level of approximately 45 dBA Ldn, those areas of the hotel that are subject to noise having levels projected to be greater than 65 dBA Ldn shall employ the following acoustical measures:

Exterior walls shall have a laboratory STC rating of at least 39. Doors and glazing shall have a laboratory STC rating of at least 32 unless glazing constitutes more than 35% of any façade exposed to noise levels of Ldn 65 dBA or above. If glazing constitutes more than 35% of an exposed façade, then the glazing shall have a STC as calculated by the acoustician. All surfaces shall be sealed and

caulked in accordance with methods approved by the ASTM to minimize sound transmission.

- B. Alternative interior noise attenuation measures may be provided subject to the implementation of a refined noise study as reviewed and approved by DPWES after consultation with DPZ.

11. Architectural Design.

- A. The architectural design of the buildings within the Application Property shall be generally consistent with the elevations shown on Sheets 4-7 of the CDP/FDP, and shall be generally consistent in style on all sides of the structure. In accordance with Sect. 2-506 of the Ordinance, penthouses and other equipment shall be exempt from the maximum heights stated on the CDP/FDP.
- B. The residential buildings shall be constructed with a mixture of masonry, precast, cementitious siding, and glass materials. No vinyl siding shall be used on the exterior building facades, but may be used within the residential courtyard façades.
- C. The office/hotel building(s) shall be constructed with a mixture of masonry, metal panel, precast and glass materials. The hotel may also include the use of synthetic stucco in its façade.
- D. All mechanical equipment, with the exception of necessary transformers and emergency back-up generators, shall be located on the roofs of the residential and office/hotel building. This rooftop equipment shall be screened from the view of pedestrians who are at ground level. In addition, the rooftop of the hotel that is visible from the office structure shall be aesthetically treated.
- E. All dumpsters shall be fully screened from view through the use of solid, opaque enclosures or other effective measures on all sides.
- F. All loading bay doors shall be kept closed unless a vehicle is entering or exiting the loading bay.
- G. Any telecommunications equipment, antennae or dishes on the roof or attached to the roof of the buildings that are not individual satellite dishes that belong to the residents of the building shall be flush mounted, screened and/or treated to compliment the architecture of the structure upon which it is located as may be approved by the Planning Commission pursuant to additional approvals. Notwithstanding the foregoing, the Applicant shall follow all laws and regulations established by the FCC or other organization with regard to telecommunication equipment.

- H. The Applicants shall underground all existing overhead utilities along the Application Property's Huntington Avenue frontage prior to the issuance of the 150th RUP for the residential building, or 150,000 GSF for the commercial buildings, whichever occurs first. Should the full undergrounding of the utilities be delayed due to circumstances beyond the Applicant's control, later dates for compliance may be permitted as determined appropriate by the Zoning Administrator.
- I. The elevations may be refined as a result of final design and engineering so long as the character and quality of the buildings remain in substantial conformance with those shown on the CDP/FDP. Regardless of what is depicted on the CDP/FDP, the residential lobby within the northern section may be located anywhere along the southern face of that structure, which is located directly across from the hotel and office buildings.
- J. Prior to site plan approval of the residential building, the Applicant shall provide elevations of the proposed façade and decorative treatment of the eastern façade to the Planning Commission for their approval as an Administrative Item. In the event that the hotel building is constructed before the residential building or at the same time as the residential building, then this requirement shall be void. Prior to site plan approval for the hotel building, the Applicant shall provide elevations of the proposed façade and decorative treatment of the eastern façade of the hotel to the Planning Commission for their approval as an Administrative Item. In the event that the hotel building and office buildings are constructed at the same time then this requirement shall be void.

12. Recreational Facilities.

- A. Pursuant to Paragraph 2 of Section 6-409 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall provide for the Application Property's use a swimming pool, passive courtyard seating areas, a dog park and an indoor recreational/leasing facility as shown on the CDP/FDP. Other recreational facilities, such as tot lots, playgrounds, roof terraces, seating areas or courts may be provided within the interior open space areas on the Application Property without the need for FDPA approval. Additional seating areas may also be permitted within the exterior open space areas on the Application Property without the need for FDPA approval. The use of the proposed off-leash dog park shall be limited to residents, guests and their dogs, and shall be signed accordingly.
- B. Prior to site plan approval, the Applicant shall demonstrate to DPWES that the minimum expenditure for the active recreational facilities in accordance with the Zoning Ordinance specified above was \$1,700.00 per residential unit, excluding the dog park. In the event the total cost of recreational improvements is demonstrated to be less than \$1,700.00 per

unit, the Applicant shall provide the remainder in a cash contribution to the Fairfax County Park Authority for the development of active recreational facilities in the vicinity of the Application Property prior to site plan approval.

- C. The Applicant shall construct the portion of the Cameron Run Trail, a 10 foot wide Type I Trail that traverses the Application Property, and shall dedicate a minimum 16-foot wide public access easement to the benefit of the Fairfax County Board of Supervisors to accommodate the trail and other public amenities as described in this proffer. The Applicant shall provide a way-side park, seating, fitness station, plantings and lighting along the trail as shown on the CDP/FDP and within the easement described above for the users of the Cameron Run Trail. The Applicant shall ensure that the future property owners association shall maintain the trail, fitness station(s), park seating, plantings and lighting, and shall be responsible for the removal of debris from this easement area. No trunks of trees shall be planted within four feet of the trail surface, and any limbs from trees that may interfere with a pedestrian or bicyclist's use of that trail shall be pruned. The Applicant shall be responsible for maintenance of the trail until responsibility is turned over to the property owner's association.
- D. Prior to site plan approval for the residential structure, the Applicant shall contribute \$893.00 per resident generated to the Fairfax County Park Authority to be used for park, trail and athletic field improvements in the Mount Vernon District, intended to serve the future residents, as determined by the Fairfax County Park Authority in consultation with the Supervisor for the Mount Vernon District. The number of residents generated shall be calculated based on the following ratio: efficiency/studio, one bedroom and one bedroom with den units generating 1.25 residents per unit; two bedroom and two bedroom with den units generating 2 residents per unit; and Workforce Housing Units generating 1.5 residents per unit. (If 217 studio, one bedroom and one bedroom with den units, 114 two bedroom and two bedroom with den units, and 59 Workforce Housing Units are constructed, then 588 residents will be generated and the contribution amount will be \$525,084 This amount may be reduced by as much as \$55,000 based on the projected costs to purchase and/or construct the fitness station, benches/street furniture, trail lighting, etc. associated with the trail and which may be utilized by the public as determined by DPWES.
- E. Prior to Site Plan approval, the Applicant shall design that portion of the Cameron Run Trail located on the Application Property. This design shall include benches, lighting, landscaping and public amenities, such as fitness stations and way side parks that shall be located along this trail on

the Application Property and available for public use. Prior to the issuance of the first RUP for the Application Property, the Applicant shall construct and install that portion of the Cameron Run Trail located on the Application Property, and shall install all trail amenities as described in this proffer and approved at site plan.

13. Workforce Housing. The Applicant shall provide 15% of the units constructed within the residential building as Workforce Dwelling Units (WDUs), as recommended in the Comprehensive Plan for the Huntington Transit Development Area in accordance with the Policy Guidelines adopted by the Board of Supervisors on October 15, 2007 for Class IIIA construction multifamily buildings, which specifies that the Workforce Units be available in equal amounts to households of income levels of 80 percent, 100 percent and 120 percent of the Area Median Income (AMI) for the Washington Metropolitan Statistical Area (MSA) adjusted for household size, as determined periodically by the U.S. Department of Housing and Urban Development. In the event that a construction type other than Class IIIA is proposed that would require Affordable Dwelling Units (ADUs), then the Applicant shall provide 5% of the units as ADUs in accordance with Part 8 of Article 2 of the Ordinance and 10% of the units as WDUs in accordance with Policy Guidelines adopted by the Board of Supervisors on October 15, 2007. In either event, the WDUs and/or ADUs will be distributed between the two residential structures so that no one building has a disproportionate number of these units.
14. Schools Contribution. Prior to site plan approval for the residential building, the Applicant shall contribute the amount of \$9,378.00 per student generated (based on a ratio of 0.047 elementary school students, 0.013 middle school students, and 0.027 high school students per dwelling unit, which would result in a total contribution of \$318,852.00 if 390 dwelling units are constructed) to the Fairfax County Board of Supervisors for the construction of capital improvements to Edison High School pyramid and/or Cluster V Fairfax County public schools to which the students generated by the Application Property are scheduled to attend. As noted in this proffer and pursuant to County Policy, the final school contribution shall be determined based upon the total number of units constructed within the residential structure. Prior to beginning construction of the residential building, the Applicant shall notify the Fairfax County Public Schools of the intended construction and anticipated completion date.
15. Signs. The Applicant shall abide by the regulations in Article 12 of the Zoning Ordinance or pursuant to a separate Comprehensive Sign Plan approved by the Planning Commission with regard to permanent and temporary signs on the Application Property.

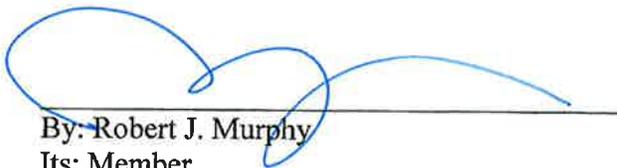
16. Severability. If determined appropriate in accordance with the parameters stated in Par.10D of Sect. 16-402 of the Ordinance, any of these land bays/sections/buildings within the Application Property may be subject to Proffered Condition Amendments and Final Development Plan Amendments without joinder or consent of the property owners of the other land bays/sections/buildings.
17. Successors and Assigns. These proffers will bind and inure to the benefit of the Applicant and his/her successors and assigns, and shall remain in full force and effect regardless of whether the multi-family residential units are for rent or for sale.
18. Counterparts. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one in the same instrument.

[SIGNATURES BEGIN ON NEXT PAGE]

RZ 2011-MV-031
Signature Sheet

APPLICANT/CONTRACT PURCHASER OF
TAX MAP 83-1 ((1)) 34C

MIDATLANTIC REALTY PARTNERS, LLC



By: Robert J. Murphy
Its: Member

[SIGNATURES CONTINUE ON NEXT PAGE]

RZ 2011-MV-031
Signature Sheet

TITLE OWNER OF TAX MAP 83-1 ((1)) 34C

HUNTINGTON AVENUE ASSOCIATES LLC

A handwritten signature in black ink, appearing to read 'DPH', is written over a horizontal line.

By: David P. Harrington
Its: Authorized Person / Chairman

[SIGNATURES END]