LINCOLN PROPERTY COMPANY SOUTHWEST INC.

PROFFERS

RZ 2003-PR-008

March 14, 2004

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 PDH-30 District for property identified as Tax Map 39-2 ((1)) part 13 (hereinafter referred to as the "Application Property"), Lincoln Property Company Southwest, Inc., the Applicant in RZ 2003-PR-008 proffers for the owners, themselves, and their successors and assigns the following conditions. In the event that this Application is approved, any previous proffers for the Application Property are hereby deemed null and void and hereafter shall have no effect on the Application Property.

Development Plan

1. Development of the Application Property shall be in substantial conformance with the Conceptual Plan/Final Development Plan (CDP/FDP) prepared by VIKA Incorporated, consisting of thirteen (13) sheets dated January 17, 2003 as revised through March 11, 2004, which CDP/FDP proposes a maximum of 570 dwelling units (including ADUs), with a maximum of 92 single family attached dwellings and 478 multi-family dwelling units. With the development of 570 dwelling units, there will be a minimum of 30 affordable dwelling units provided, based on compliance with Section 2-800 of the Zoning Ordinance. . If fewer number of market rate units are built, a proportionately fewer number of ADUs will be provided. The Generalized Development Plan for companion application PCA 75-7-004-2 is shown on Sheets 4 and 5.

   Secondary uses shall be limited to unmanned bank teller machines, swimming pool and associated facilities, fitness centers, basketball half-court/racquetball court/sports court, business/telecommuting centers, video/entertainment centers, leasing offices, recreational/community rooms, outdoor recreational uses, and other accessory uses typically provided in multi-family communities.

2. Notwithstanding that the CDP/FDP is presented on thirteen (13) sheets and said CDP/FDP is the subject of Proffer 1 above, it shall be understood that the CDP shall be the entire plan shown on Sheets 2 and 3, relative to the points of access, the maximum number and type of dwelling units, the amount of open space, the general location and arrangement of buildings and parking, and the peripheral setbacks. The Applicant or successors have the option to request a FDPA for elements other than the CDP elements from the Planning Commission for all of or a portion of the CDP/FDP in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance, if in conformance with the approved CDP and proffers.

3. Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the CDP/FDP may be permitted as determined by the Zoning Administrator. The

Applicant or successors shall have the flexibility to modify the layouts shown on Sheets 2 and 3 of the CDP/FDP without requiring approval of an amended CDP/FDP provided such changes are in substantial conformance with the CDP/FDP as determined by the Department of Planning and Zoning ("DPZ") and do not increase the number of dwelling units, decrease the amount of open space, or decrease the setback from the peripheries.

4. Advanced density credit shall be reserved as may be permitted by the provisions of Paragraph 5 of Section 2-308 of the Fairfax County Zoning Ordinance for all eligible dedications described herein, including road dedications, park dedications and school dedications, or as may be required by Fairfax County or Virginia Department of Transportation ("VDOT") at the time of site plan approval.

Owner Associations

5. Prior to the issuance of the first Residential Use Permit ("RUP") on the Application Property, the Applicant shall establish an Umbrella Owners Association ("UOA") in accordance with Virginia law. Individual homeowner associations and/or condominium owners associations ("HOA/COAs") shall be formed for various areas of the Application Property in accordance with Virginia law. Each HOA/COA and rental component shall be a member of the UOA with voting rights based on the number of dwelling units within each. The respective UOA and HOA/COA documents shall specify the maintenance obligations as may be outlined in these proffers and as may be agreed upon between the HOA/COAs and rental components.

Transportation

6. At the time of site plan approval, or upon demand by Fairfax County, whichever shall occur first, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way along the Application Property's Gallows Road frontage measuring a minimum of seventy-four (74) feet from the existing centerline as shown on Sheet 3 of the CDP/FDP.

   Townhouse units fronting on Gallows Road shall be set back a minimum of 15 feet from the dedicated right-of way. Initial purchasers of the townhouses along Gallows Road shall be advised in writing prior to entering into a contract of sale that Gallows Road is planned to be widened in the future.

7. At the time of site plan approval, the Applicant shall escrow the cost of constructing a future right-turn deceleration lane along the Gallows Road frontage of the Application Property, in an amount to be determined by Department of Public Works and Environmental Services ("DPWES"). The escrow shall include the cost of relocating, if determined necessary, the underground utilities existing at the time of rezoning approval which include a fiber optic line and water easement. This new turn lane is anticipated to

be needed at such time as the existing right-turn deceleration lane becomes a future through lane on Gallows Road.

8. The Applicant shall construct extensions of the existing left turn lanes on northbound Gallows Road at the Merry Oaks Lane intersection and southbound Gallows Road at Science Applications Court within the existing right-of-way as may be approved by DPWES and VDOT. Such extensions, if permitted, shall be completed prior to the issuance of the 100th Residential Use Permit (RUP) for the Application Property.

9. Science Applications Court shall remain a private street. Commensurate with development of the Application Property, the Applicant shall construct improvements to Science Applications Court on a new alignment as shown on the CDP/FDP. The Science Applications Court approach to Gallows Road shall accommodate two lanes entering and three lanes exiting the Application Property.

10. Prior to site plan approval, the Applicant shall perform a warrant analysis to determine if a traffic signal is warranted at the intersection of Gallows Road and Madrillon Road. If the study shows a signal is warranted now or will be warranted with the build-out of the Application Property, the Applicant shall escrow the sum of $25,000 with DPWES at the time of first site plan approval towards the design and installation of said traffic signal at the intersection of Gallows Road and Madrillon Road. If the signal has not been installed within five (5) years of the date of the rezoning approval, the escrowed amount shall be redirected to the Providence District Trails Fund.

11. The Applicant shall provide one (1) bus shelter along its Gallows road frontage with specific location determined by WMATA. The bus shelter shall be the typical open type and the installation shall be limited to the concrete pad, the shelter itself and a trash can. No bus turn outs or special lanes shall be provided by the Applicant. If, by the time of final bond release, WMATA has not determined the exact location of the bus shelter, the Applicant shall escrow the amount of $20,000 with DPWES for the installation of a bus shelter by others in the future. Once installed, the bus shelter and trash can shall be maintained by the Application Property's UOA. Initial purchasers shall be advised in writing prior to entering into a contract of sale that the UOA shall be responsible for the maintenance of the bus shelter. The UOA/HOA/COA documents shall specify that the UOA is responsible for the maintenance of the bus shelter.

    At the time of final site plan approval, the Applicant shall escrow the amount of $20,000 with DPWES for the installation of a bus shelter by others along the southbound frontage of Gallows Road in the vicinity of the Merry Oaks Lane intersection, with the specific location determined by WMATA. If, by the time of final bond release, WMATA has not determined the exact location of the bus shelter, the $20,000 escrow shall be redirected to DPWES for funding of another shelter elsewhere in the Dunn Loring/Tysons Corner area.

12. At the time of site plan approval, the Applicant shall dedicate in fee simple to the Board of Supervisors right-of-way along the Application Property's I-495 frontage measuring 25

feet from the existing right-of-way as shown on Sheet 3 of the CDP/FDP. The Applicant shall provide ancillary utility and grading easements to a width determined by VDOT provided VDOT reconstructs any permanent improvements and landscaping disturbed with use of the easement. Subject to approval of a licensing agreement with Fairfax County, the Applicant shall maintain and have the usage of the dedicated area for open space until such time as construction of the I-495 improvements commence.

13. The use of mass transit, ride-sharing and other transportation strategies shall be utilized to reduce single occupancy vehicular (SOV) traffic from the Application Property during peak hours by a minimum of 20 percent of the trips generated according to the Institute of Transportation Engineers (ITE) Trip Generation Manual, 6th Edition. The transportation demand management ("TDM") plan shall consist of at least two Level 3 TDM elements as outlined in Attachment A and as defined by Fairfax County Department of Transportation ("FCDOT") for residential communities, in order to achieve the equivalent Level 4 (Platinum) program status. Tenants and purchasers shall be advised of this transportation strategy development proffer.

The Applicant shall designate an individual(s) to act as the Transportation Coordinator(s) whose responsibility shall be to implement the TDMs in coordination with the FCDOT. The transportation strategies management position may be a part of other duties assigned to the individual(s). The transportation management strategies shall be implemented after issuance of the 200th RUP for the Application Property. Strategies shall include the following:

A. Providing amenities for bicycle storage;
B. Providing a telecommuting center for all residents' use with the potential for upgrading to T-1 or similar secure lines;
C. Providing internet connections in all dwelling units to facilitate working at home;
D. Providing a concierge service/central area where residents can arrange certain services such as dry cleaning/pharmacy/grocery deliveries;
E. Sidewalk system designed to encourage/facilitate pedestrian circulation; and
F. Participation in a shuttle service as outlined in Proffer 14.

Strategies may include the following:

A. Participation in the Fairfax County Ride Share Program;
B. Dissemination of Ridesharing information in residential lease and purchase packages;
C. Making ridesharing display maps and forms available to in each multi-family building;
D. Providing Metro checks with rental contracts;
E. Instituting a "Preferred Employer" program for SAIC offering reduced application fees, reduced deposits, and other incentives to encourage SAIC employees to live on the Application Property;

F. Implementing a comprehensive Ozone Action Days Program;
G. Developing a web page for residents of the Application Property describing and updating information on TDM strategies and services; and
H. Any other strategies found to be effective in reducing the number of single-occupancy vehicle trips, mutually agreed upon by the Applicant and FCDOT.

The Transportation Coordinator may work with adjacent homeowner associations to develop and share carpool, vanpool and other ride sharing information.

The Applicant shall notify FCDOT of the date that the TDM strategies are implemented. One year after the TDM strategies are implemented the Applicant shall conduct a survey of residents, visitors and employees to determine the transportation characteristics of building tenants and employees. This survey will form the basis of the on-going transportation management program.

Annually thereafter, the Transportation Coordinator shall conduct a multi-modal transportation split survey of the residents to demonstrate whether the goal of reducing SOV trips by 20 percent has been met during peak hours. The Transportation Coordinator shall prepare an annual report, in coordination with, and for review and approval of the FCDOT, which shall include the results of the survey and assess the success of the TDM strategies in reaching the stated goal and recommend adjustments in TDM strategies.

If the annual multi-modal transportation split surveys indicate that a reduction of SOV trips by 20 percent has not occurred, $40.00 per occupied dwelling unit shall be contributed annually to a TDM fund for the Application Property until such time as the reduction has occurred. The TDM fund shall be used by the Transportation Coordinator to implement existing or new strategies to reduce SOV trips during peak hours. The terms of this proffer with regard to contributing to a TDM fund shall expire fifteen (15) years after the last RUP is issued.

14. The Applicant shall provide a shuttle bus/van service from the Application Property to the Dunn Loring Metro Station and other office campuses within Tysons Corner. The Applicant may provide this shuttle service in concert with an existing shuttle service provided by the adjacent I-3 property and may share in the cost of operation. The shuttle service shall be provided to meet peak hour demand and shall, at a minimum, operate on weekdays (except for federal holidays) for three hours during the morning peak and three hours during the evening peak. The shuttle service shall commence prior to the occupancy of the 200th RUP on the Application Property and shall operate for at least three years following the issuance of the last RUP. Cost of the shuttle service shall be borne by the UOA. Initial purchasers shall be advised in writing prior to entering into a contract of sale that the UOA will fund the cost of operating the shuttle. The UOA/HOA/COA documents shall expressly state that the UOA shall be responsible for operation of the shuttle. If it is determined by the Applicant that demand for the shuttle service does not warrant continuation, the Applicant may elect to cease operation.

However, the Applicant shall provide ninety (90) days advance written notification to residents of the Application Property and FCDOT of the planned cessation of shuttle service. In addition, if FCDOT determines that the shuttle service interferes with the public bus service and notifies Applicant of same, the Applicant shall cease operation of the shuttle service upon ninety (90) days advance written notification to residents.

15. All private streets shall be constructed with materials and depth of pavement consistent with public street standards in accordance with the Public Facilities Manual, as determined by DPWES. The Applicant and subsequent UOA/HOA/COAs shall be responsible for the maintenance of all private streets. Initial purchasers shall be advised in writing prior to entering into a contract of sale that the UOA/HOA/COAs will be responsible for the maintenance of the private streets. The UOA/HOA/COA documents shall expressly state that the individual HOA/COA or rental component shall be responsible for the maintenance of the private streets serving that entity's development area.

16. The Applicant shall make a cash contributution to a fund administered by the FCDOT to be used toward Tysons Corner Area transportation improvements. The amount of the contribution shall be in keeping with the policy and formula adopted by the Board of Supervisors at the time of the approval of the rezoning (anticipated to be $734.00 per dwelling). Using the rezoning approval date as the base date, this cash contribution shall be adjusted accordingly to the construction cost index as published in the *Engineering News Record*. The contribution shall be paid in two equal (2) installments; the first installment to be paid at the issuance of the first RUP; the remaining installment shall be paid twelve (12) months later, but no later than final bond release.

17. The Applicant shall install appropriate warning signage and/or markers on the east side of Gallows Road as determined by VDOT, advising motorists of the curve in Gallows Road immediately north of Science Applications Court. If by the time of final bond release for the Application Property, VDOT has not determined what signers or markers would be appropriate, the Applicant's obligation under this proffer shall be null and void.

18. To increase pedestrian safety crossing Gallows Road at Science Applications Court, the Applicant shall make the following improvements subject to VDOT approval:

    A. Widen the existing concrete median located on the northern Gallows Road approach to a width of six (6) feet to provide for a pedestrian refuge. This shall be accomplished by shifting the Gallows Road curbing along the Application Property's frontage.

    B. Re-paint the pedestrian crosswalk.

    C. Install a new pedestrian signal that counts down the time available to cross the road.

    D. Work with VDOT to ensure adequate crossing time.

E. Install "no turn on red while pedestrians are present" signage on the Gallows Road northern approach and on Merry Oak Lane's eastbound approach to the intersection.

19. The Applicant shall construct a secondary emergency only access point onto Gallows Road as shown on the CDP/FDP, commensurate with development of the townhouse section. This access shall be constructed of grasscrete, ritter rings or other similar materials and shall be chained at the property line so that it is used only in emergency situations.

Architectural/Landscaping Details

20. The architectural design of the multi-family buildings and townhomes shall be in substantial conformance with the general character of the elevations shown on Sheet 13. The Applicant reserves the right to refine the elevations as a result of final architectural design, so long as the character and quality of design remains consistent with those shown. The townhouses shall be a maximum of three stories above grade with an additional optional loft incorporated into the roof structure (maximum building height of 45 feet). Building materials may include one or more of the following: brick, stone, pre-cast concrete, siding, stucco (excluding dryvit or other similar synthetic stucco material) and glass. Building facades will be predominantly masonry. The façade of the parking structure associated with Building 2 shall be predominantly either masonry or pre-cast concrete.

A copy of the architectural plans shall be submitted to the Providence District Planning Commissioner for review and comment prior to final site plan approval. At the time of each submission of the final site plan to the County, a copy of the submission shall be provided to the Providence District Planning Commissioner for review and comment.

21. A landscape plan shall be submitted as part of the first and all subsequent submissions of the site plan and shall be coordinated with and approved by the Urban Forester. This plan shall be in substantial conformance with the landscape concepts plan as to quantity and quality of plantings, and in general conformance with the location of plantings as shown on Sheets 6. The Applicant shall work with the Urban Forester to select plant species that in addition to meeting other landscaping requirements such as durability, availability and aesthetics, also aid in the maintenance of air quality. Location of plantings may be modified based on utility location, sight distance easements, and final engineering details as approved by the Urban Forester, but shall be consistent in the number and type of plantings.

22. The design details shown on Sheets 6, 8, 9 and 10 submitted with the CDP/FDP illustrate the design intent and overall community organization of the proposed development. Landscaping and on-site amenities shall be substantially consistent in terms of character and quantity with the illustrations and details presented on these sheets. Specific features

such as exact locations of plantings, pedestrian lighting, sidewalks to individual units, etc. are subject to modification with final engineering and architectural design. Landscaping and on-site amenities shall include:

a. A landscaped entry feature to be provided on site to include an entrance monument and/or signage, ornamental trees and shrubs;

b. Installation of streetscape elements and plantings along the Application Property's Gallows Road frontage as shown on Sheets 6 and 10 of the CDP/FDP. A planting strip a minimum of six (6) feet in width shall be provided between the future curb of Gallows Road anticipated with construction of an additional lane and the proposed asphalt trail. Street trees on the east side of the trail shall be planted at twice the density as street trees in the planting strip west of the trail, as shown on Sheet 10 of the CDP/FDP. Street trees shall be a minimum of three-inch caliper at the time of planting. Trees located within VDOT rights-of-way are subject to VDOT approval.

c. Installation of streetscape elements and plantings along the south side of Science Application Court as shown on Sheet 9 of the CDP/FDP.

d. A large community green in the eastern portion of the Property as shown on Sheet 8 of the CDP/FDP. This passive recreational area shall include pedestrian pathways, specialized landscaping, seating areas, and pedestrian lighting and shall be available for use by all residents of the Application Property.

e. Landscaped courtyards within the multi family Buildings 2 and 3 as shown on Sheet 6 and detailed on Sheet 8 of the CDP/FDP. These courtyards shall incorporate a courtyard walk, special paving areas with seating or picnic areas, a mixture of deciduous, evergreen and ornamental plantings, and a lawn panel. Each courtyard may vary in design detail and amenities.

Sidewalk/Trails

23. The Applicant shall provide sidewalks on both sides of Science Applications Court and throughout the Application Property linking buildings as shown on Sheet 6 of the CDP/FDP. Such construction shall occur commensurate with the development of each section of the Application Property. In addition, the Applicant shall construct a minimum five (5) foot wide asphalt trail around the stormwater management pond and between the I-495 frontage and the proposed parking garage as shown on the CDP/FDP. Trail construction shall occur concurrently with the construction of the stormwater management ponds.

24. The Applicant shall construct an eight (8) foot wide asphalt trail within the dedicated right-of way along the Gallows Road frontage as shown on Sheets 6 and 10 of the CDP/FDP.

Environment

25. All outdoor lighting fixtures shall be in accordance with the Performance Standards contained in Part 9 (Outdoor Lighting Standards) of Article 14 of the Zoning Ordinance. Fixtures used to illuminate residential streets, parking areas and walkways shall not exceed twenty (20) feet in height, shall be of low intensity design and shall utilize full cut-off fixtures which shall focus directly on the Application Property. All upper level parking deck lighting fixtures shall not exceed the height of the parapet wall. Lighting on the lower level of parking decks shall be installed between the ceiling beams to reduce glare.

    To prevent parking deck lighting impacts on Tysons Executive Village, the southern façade of the parking deck located adjacent to I-495 shall be solid including a solid garage door or panel door which will not allow light to pass through.

26. Signage on the Application Property shall be provided in accordance with Article 12 of the Zoning Ordinance. If lighted, signage shall be internally lighted or directed downward.

27. Unless modified by DPWES, the Applicant shall provide stormwater detention and Best Management Practices as required by the Public Facilities Manual (PFM) and as depicted on the CDP/FDP in up to three enhanced extended detention facilities. Plantings shall be provided within these ponds to the extent permitted by the PFM. The design of the southern pond will require a modification of the PFM to allow the installation of a dam cut-off wall. The ponds shall be maintained by the UOA, in association with the owners of the commercial structures governed by PCA 75-7-004-2.

28. Within 90 days of the Board's approval of the rezoning of the Application Property, the Applicant shall submit a written comparative analysis to the Tysons Executive Village ("TEV") Homeowners Association Board of Directors [Tax Map 39-2 ((48))], DPWES, and the Providence District Supervisor analyzing the effects of existing and future development on the existing wet pond in the TEV subdivision for the entire watershed of the pond and comparing the advantages and disadvantages of converting it to a dry pond or maintaining it as a wet pond. The TEV HOA shall be given the opportunity to review the analysis and provide a written determination to the Applicant and Providence District Supervisor as to its decision to maintain or convert the pond. As a result of that determination and after review of that analysis by DPWES, the Applicant shall undertake the following actions:

    a. If TEV elects to maintain their stormwater management facility as a wet pond, the Applicant shall remove accumulated sediment from the pond and restore the pond

it to its originally designed storage capacity at no cost to TEV. Such improvement shall be made concurrent with initiation of clearing and grading on the Application Property subject to TEV providing any necessary permission and/or easements at no cost to the Applicant. The Applicant shall perform a bathometric survey of the TEV pond following completion of the pond improvements and shall perform a second bathometric survey following completion of construction on the Application Property. Should these surveys show an unacceptable level of sedimentation has occurred, as determined by DPWES, the Applicant shall restore the pond to its approved storage volume prior to final bond release on the Application Property.

The Applicant shall then enter into an agreement with TEV agreeing to pay its proportionate share of all future pond maintenance costs (as defined in said agreement). Said agreement shall be recorded in the land records.

b. If TEV elects to convert their wet pond to a dry pond, the Applicant shall revise the TEV site plan accordingly and shall make the necessary improvements at no cost to TEV subject to TEV's written authority to do so and subject to DPWES approval. Landscaping in the pond shall be provided by Applicant as permitted by the Urban Forester and DPWES. In order to convert the pond it is understood that it may be necessary to provide Best Management Practices (BMPs) for TEV on the Application Property. Conversion of the pond shall occur concurrent with clearing and grading activities on the Application Property provided 1) the TEV site plan revision has been approved; and 2) TEV provides any necessary permission and/or easements at no cost to the Applicant. If the TEV site plan revision is not approved and/or necessary easements not provided prior to clearing and grading activities on the Application Property, the Applicant shall delay conversion of the pond until necessary approvals and easements are obtained but shall be allowed to proceed with clearing, grading and construction on the Application Property. Once the pond has been converted to a dry pond, TEV shall petition Fairfax County to accept maintenance of the pond. The Applicant shall be responsible for any additional improvements needed to ensure County acceptance.

c. The Applicant shall bond these public improvements in keeping with standard County policies.

If TEV does not provide a written determination to the Applicant and Providence District Supervisor within 60 days of its receipt of the Applicant's written comparative analysis, the Applicant shall implement improvements specified in Paragraph "a" above.

29. In an effort to mitigate existing drainage problems within the adjacent Courts of Tysons ("COT") community, the Applicant shall:

a. Design and install a storm drain system to intercept stormwater from Gallows Road currently being piped along the COT northern boundary line. The new system shall redirect this storm drainage through the Application Property as generally shown on the CDP/FDP.

b. Provide an underground TV inspection of the condition of the existing storm drain from Gallows Road to the proposed intercepts and correct any breaks, malfunctions, or sedimentation found, as determined necessary and approved by DPWES. Implementation of this proffer is dependent on the COT granting any necessary easements or letters of permission at no cost to the Applicant.

c. The Applicant shall bond these public improvements in keeping with standard County policies.

30. A tree preservation plan shall be submitted as part of the site plan in conformance with the tree save areas shown on the CDP/FDP. The preservation plan shall be prepared by a professional with experience in the preparation of tree preservation plans, such as a certified arborist or landscape architect, and reviewed and approved by the Urban Forestry Division. The tree preservation plan shall consist of a tree survey that includes the location, species, size, crown spread and condition rating percentage of all trees twelve (12) inches in diameter and greater within fifteen (15) feet of either side of the limits of clearing and grading. The condition analysis ratings shall be prepared using methods outlined in the latest edition of the *Guide for Plant Appraisal* published by the International Society of Arboriculture.

All trees shown to be preserved on the tree preservation plan shall be protected by tree protection fence. Tree protection fencing using four foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart, shall be erected at the limits of clearing and grading as shown on the CDP/FDP. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures. Three (3) days prior to the commencement of any clearing, grading, or demolition activities, the Urban Forestry Division shall be notified and given the opportunity to inspect the site to assure that all tree protection devices have been correctly installed.

The Applicant shall strictly conform to the limits of clearing and grading as shown on Sheet 3 of the CDP/FDP.

The limits of clearing and grading shall be marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the limits of clearing and grading shall be walked with an Urban Forestry Division representative to determine where minor adjustments to the clearing limits can be made to increase the survivability of trees at the edge of the limits of clearing and grading. Representatives of the COT and TEV HOAs shall be invited to participate in walking the

limits of clearing and grading adjacent to their communities with the Applicant and the Urban Forester. Trees that are not likely to survive construction due to their species and/or their proximity to disturbance will also be identified at this time and removed as part of the clearing operation.

Any trees identified to be preserved adjacent to the COT, Courthouse Station and TEV property lines, which fail to survive within two years following construction activity shall be replaced by the Applicant with species as determined appropriate by the Urban Forester, in consultation with designated representatives of the COT HOA, Courthouse Station HOA, and TEV HOA and the UOA for the Application Property. To supplement the normal conservation escrow required, the Applicant shall post an additional $10,000 in the conservation escrow at the time of site plan approval to ensure replacement of construction damaged trees.

31. A fence a minimum of six feet in height shall be provided between the southernmost stormwater management pond on the Application Property and the adjacent TEV, Courthouse Station, and COT subdivisions as depicted on the CDP/FDP. The fence shall be constructed with masonry piers and wooden inserts. The fence shall be field located, with review by the Urban Forester, to ensure minimal disturbance to existing vegetation. Deciduous and evergreen trees shall be installed between the wall/fence and adjacent subdivisions to supplement existing vegetation to be preserved, as determined by the Urban Forester. Any trees identified to be preserved which fail to survive a two year period following construction shall be replaced by the Applicant with species determined appropriate by the Urban Forester, in consultation with designated representatives of the COT HOA, Courthouse Station HOA, and TEV HOA and the UOA for the Application Property.

Installing the above-referenced fence will result in a double set of fencing along the COT eastern boundary. If, in the future, both the COT HOA and the UOA for the Application Property jointly decide to eliminate the second fence located inside the Application Property, nothing in this proffer should prevent removal of that fence. In the event the removal of such second fence is jointly decided, a shared fence maintenance agreement for the eastern boundary of COT shall be executed prior to any removal.

32. Within the tree save area shown on the Application Property immediately north of the COT and around the south end of the Kidwell Drive cul-de-sac, the Applicant shall provide supplemental evergreen and deciduous trees as determined by the Urban Forester in consultation with the COT HOA and Heritage Point HOA in an effort to create an effective year round screen. Care shall be taken to retain healthy quality vegetation to the maximum extent possible, while augmenting the screening opportunities.

33. All units constructed on the Application Property shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by DPWES for either electric or gas energy homes, as applicable.

34. Polysonics Corp. has prepared a Traffic Noise Analysis of the Application Property dated August 2003. This report provides an analysis of noise impacts associated with I-495 and Gallows Road. Based on the findings of that report, the Applicant shall provide the following noise attenuation measures:

a. In order to reduce interior noise associated with Interstate 495 to a level of approximately 45 dBA Ldn, the garage associated with Building 3 shall be utilized as a noise attenuation barrier as shown on the CDP/FDP.

b. In order to reduce interior noise to a level of approximately 45 dBA Ldn, for units which are projected to be impacted by highway noise from I-495 having levels projected to be greater than 70 dBA Ldn after the garage is in place, located on the eastern façade of Building 2 and the northern and southern facades of Building 3, these units shall be constructed with 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 37 unless glazing constitutes more than 20% of any façade exposed to noise levels of Ldn 65 dBA or above. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of at least 45. 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.

c. In order to reduce interior noise to a level of approximately 45 dBA Ldn for units which are projected to be impacted by roadway noise from Gallows Road having levels projected to be between 65 and 70 dBA Ldn, located on the western façade of Building 1 and the townhouse units facing Gallows Road, these units shall be constructed with the following acoustical measures:

Exterior walls should have a laboratory sound transmission class (STC) rating of at least 39.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 Ldn 65 dBA or above. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of at least 39. All surfaces should be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.

d. Prior to the issuance of building permits, 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 the Department of Planning and Zoning.

e. Due to the placement of structures on the site, additional exterior noise mitigation is not necessary for most of the outdoor recreational uses on the site. The jogging trail with exercise stations located adjacent to I-495 will be impacted by noise but mitigation is not provided.

35. If required by DPWES, a geotechnical engineering study shall be submitted to DPWES for review and approval prior to final site plan approval, and recommendations generated by this study shall be implemented as required by DPWES.

36. Prior to the issuance of a demolition permit or land disturbance permit, a rodent abatement plan shall be submitted to Fairfax County Health Department that will outline the steps that will be taken to prevent the spread of rodents from the construction site to the surrounding community and sewers. The Applicant shall implement the rodent abatement plan.

Miscellaneous

37. The Applicant shall contribute the amount of $150,000 to Kilmer Intermediate School for the purchase of wireless computers or other technology based programs at the discretion of the principal. The Applicant shall provide documentation that this contribution has been made. Such contribution shall occur prior to the issuance of the first RUP for the Application Property

38. The Applicant shall contribute the amount of $465,000 to the Board of Supervisors for the construction of capital improvements to schools in the vicinity of the Application Property. The contribution shall be paid in two (2) installments; the first installment of $232,500 to be paid prior to issuance of the 100th RUP and the second installment of $232,500 shall be paid prior to the issuance of the 300th RUP.

39. The Applicant shall comply with the Affordable Dwelling Unit (ADU) Program as set forth in Section 2-801 of the Zoning Ordinance unless modified by the ADU Advisory Board. The Applicant reserves the right to provide ADUs for all of the Application Property within the multi-family buildings. Two of the required ADUs (one one-bedroom unit and one two-bedroom unit) shall be designed and constructed to be fully handicapped accessible. Three of the required ADUs shall be designed and constructed as handicapped adaptable units and shall be made fully handicapped accessible if demand dictates.

40. No temporary signs (including "Popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 of Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on- or off-site by the Applicant or at the Applicant' direction to assist in the initial sale or rental of residential units on the Application Property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and sale and/or rental of residential units on the Application Property to adhere to this proffer.

41. The Applicant shall comply with Paragraph 2 of Section 6-110 of the Zoning Ordinance by contributing $955 per dwelling unit for developed recreational facilities. The Applicant shall receive credit for the on-site recreational facilities which shall include, but not be limited to a swimming pool; a community center with exercise facilities; a tot lot; an indoor basketball half-court/racquetball court/sport court (either within one of the residential buildings or in a separate structure as shown on the CDP/FDP); and a jogging trail with exercise stations. Any additional money remaining which is not spent for on-site facilities shall be contributed to the Fairfax County Park Authority.

42. Prior to the issuance of the first RUP on the Application Property, the Applicant shall contribute the amount of $150,000.00 to the Fairfax County Board of Supervisors for the acquisition of park land or improvement of park facilities in the Dunn Loring/Tysons Corner area.

43. A covenant shall be recorded which provides that townhouse garages shall only be used for a purpose that will not interfere with the intended purpose of garages (e.g., parking of vehicles) and that parking shall not be permitted in driveways that are less than 18 feet in length. This covenant shall be recorded among the land records of Fairfax County in a form approved by the County Attorney prior to the sale of any lots and shall run to the benefit of the UOA/HOA/COA and the Fairfax County Board of Supervisors. Initial purchasers shall be advised in writing of the use restrictions prior to entering into a contract of sale and said restrictions shall be contained in the HOA/COA documents.

44. All front loaded townhouse driveways on the Application Property shall be a minimum of eighteen (18) feet in length from the garage door to the sidewalk.

45. A joint maintenance agreement between the UOA and the owners of the commercial structures governed by PCA 75-7-004-2 shall be provided for the maintenance of Science Application Court, pedestrian trails, and the stormwater management facilities serving the Application Property and the property subject to PCA 75-7-004-2. Purchasers shall be advised in writing prior to entering into a contract of sale that the UOA will share in the cost of such maintenance. The UOA documents shall expressly state that the UOA shall be responsible for shared maintenance of these facilities.

46. Property owners of two adjacent lots in TEV identified as Tax Map 39-2 ((48)) 9 and 10 have been utilizing portions of the Application Property as extensions of their rear yards. In order to allow this use to continue, the Applicant shall convey in fee simple the Outlot A-1 shown on the CDP/FDP to the owner of Lot10 and Outlot A-2 as shown on the CDP/FDP to the owner of Lot 9. Conveyance shall occur prior to bonding of the site plan for the Application Property. The Deeds of Conveyance shall include restrictive covenants which provide, among other things, that (1) density from the out lots shall be reserved in perpetuity for the benefit of the remainder of the Application Property; (2) no structures shall be constructed on the out lots, rather the out lots shall be left as open space with existing trees preserved to the maximum extent feasible; and (3) any future rezoning, proffered condition amendment, final development plan amendment, or site

plan approvals for the remainder of the Application Property shall not require the inclusion of the out lots or the joinder or consent of the owners of the out lots so long as the rezoning, proffered condition amendment, final development plan amendment or site plan does not include the area of the out lots.

47. In order to provide a tot lot for the COT Homeowners Association [Tax Map 39-2 ((27))], the Applicant shall convey in fee simple Outlot A-3 as shown on the CDP/FDP to the COT. Prior to the conveyance, the Applicant shall:

    a. Install a tot lot on the outlot based on a determination as to the type of equipment COT desires. Such equipment cost shall not exceed $20,000. Care shall be taken to minimize disturbance to existing quality vegetation. The final location of the tot lot shall be determined by the Urban Forester;

    b. Construct a pedestrian connection between the existing COT property and the tot lot as generally shown on the CDP/FDP; and

    c. Install a fence around the perimeter of Outlot A-3 and remove sections of the existing fence between COT and Outlot A-3 to allow the pedestrian connection.

    d. Bond these improvements in keeping with standard County policies.

    Such improvements shall be made subject to COT providing any necessary permission and/or easements at no cost to the Applicant, and COT providing timely input into the type of tot lot equipment and fencing desired. In the event COT has not provided information with regard to equipment selection and fencing in a timely manner prior to the Applicant applying for its 100th RUP, the Applicant may elect to contribute $20,000 to the COT along with the fenced outlot conveyance and thereby be relieved of any further obligation to install the tot lot and pedestrian connection.

    Conveyance of Outlot A-3 shall occur prior to issuance of the 100th RUP for the Application Property. The Deed of Conveyance shall include restrictive covenants which provide, among other things, that (1) density from the outlot shall be reserved in perpetuity for the benefit of the remainder of the Application Property; (2) no structures other than the tot lot shall be constructed on the outlot, (3) existing trees shall be preserved to the maximum extent feasible; and (4) any future rezoning, proffered condition amendment, final development plan amendment, or site plan approvals for the remainder of the Application Property shall not require the inclusion of the outlot or the joinder or consent of the owner of the outlot so long as the rezoning, proffered condition amendment, final development plan amendment or site plan does not include the area of the outlot.

48. Prior to the issuance of the first RUP on the Application Property, the Applicant shall either:

a. Contribute the sum of $25,000 to the COT Homeowners Association for the maintenance and future replacement of the fence installed by the COT along its common boundary with the Application Property. The Applicant shall provide documentation to DPWES that this contribution has been made; or

b. Enter into a fence maintenance agreement with the COT Homeowners Association. Said agreement shall specify that the COT and the Applicant, its successors or assigns shall share equally in the cost of future maintenance and/or replacement of the existing wooden fence along the Courts of Tysons northern boundary. The COT fence along its eastern boundary and the future fence around the tot lot described in Proffer 45 shall be the responsibility of the COT Homeowners Association. This agreement shall be recorded among the land records of Fairfax County. In the event an agreement to the satisfaction of both the parties has not been reached by the time the Applicant has applied for its first RUP, the Applicant shall contribute the sum of $25,000 to the COT Homeowners Association for the maintenance and future replacement of the fence and shall be released of its obligation to enter into a joint fence agreement.

The COT Homeowners Association shall be given the opportunity to inform the Applicant in writing of which of the two alternatives they prefer. If COT fails to provide a written determination to the Applicant within 60 days of its receipt of the Applicant's request for a determination, the Applicant shall implement the alternative in Paragraph "a" above.

49. Prior to approval of the final site plan on the Application Property, the Applicant shall provide evidence that a parking agreement is in place with the owners of the adjacent I-3 parcel identified as Tax Map 39-2 ((1)) part 13, permitting overflow parking from the Application Property to utilize parking facilities on the I-3 parcel. A minimum of 150 overflow parking spaces shall be available to all residents of the Application Property during non-business hours on weekdays (after 6:00 pm) and on weekends. This parking agreement shall be recorded in the land records of Fairfax County.

50. Construction activity shall be permitted Mondays through Fridays from 7:00 a.m. to 7:00 p.m., Saturdays from 8:00 a.m. to 6:00 p.m. No construction activity shall be permitted on Sundays, Thanksgiving Day, Christmas Day and New Years Day. These construction hours shall be posted on the Application Property prior to any land disturbing activities. The Applicant shall include a construction hour notice in its contract with its general construction contractor.

51. 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.

52. These proffers will bind and inure to the benefit of the Applicant and his/her successors and assigns.

53. The individual sections within the Application Property may be subject to Proffered Condition Amendments and Final Development Plan amendments without joinder and/or consent of the other property owner of the other sections/buildings.

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[SIGNATURES BEGIN ON NEXT PAGE]

APPLICANT/CONTRACT PURCHASER
OF TAX MAP 39-2 ((1)) 13 pt.

LINCOLN PROPERTY COMPANY
SOUTHWEST, INC.

By: Richard N. Rose
Its: Vice President

[SIGNATURES CONTINUED ON NEXT PAGE]

TITLE OWNER OF TAX MAP 39-2 ((1)) 13

CAMPUS POINT REALTY CORPORATION II

_____

By: Frederick R. Hazard
Its: President

[SIGNATURES END]