PROFFERED CONDITIONS
Random Hills Road Rezoning

RZ 2004-SP-004
September 21, 2004

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the property owners (the "Owners") and applicant (the "Applicant") in this rezoning proffer that the development of the parcels under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference 56-2-((11))-B1 (hereinafter referred to as the "Property") will be in accordance with the following proffered conditions (the "Proffered Conditions") if, and only if, said Rezoning request for the R-12 and HC Zoning District is granted. In the event said application request is denied, these Proffered Conditions shall be null and void. The Owners and the Applicant, for themselves, their successors and assigns, agree that these Proffered Conditions shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures. These Proffered Conditions, if accepted, supersede all previous Proffered Conditions existing on the Property. The Proffered Conditions are:

I. GENERAL

1. Substantial Conformance. Subject to the Proffered Conditions and the provisions of Article 18 of the Zoning Ordinance, under which minor modifications to an approved development plan are permitted, the development shall be in substantial conformance with the Generalized Development Plan (the "GDP"), containing thirteen (13) sheets prepared by Christopher Consultants, dated December 22, 2003 and revised through September 2, 2004.

2. Lot Yield and Orientation of Units. The development shall consist of a maximum of fifty-three (53) market rate single family attached residential units and four (4) multi-family Affordable Dwelling Units (ADUs). The specific unit footprints shown on the GDP are subject to minor modifications and shall further conform to the "Typical Lot/Units Details" (as shown on the GDP) and/or the requirements of these Proffered Conditions.

3. Establishment of CHOA. Prior to record plat approval, the Applicant shall demonstrate that the Property will be governed by a condominium/homeowners association (the "CHOA") and be subject to a Declaration of Covenants, Conditions and Restrictions consistent with the requirements of Article 2 of the Zoning Ordinance. In fulfillment of this requirement, the Applicant will use reasonable efforts to incorporate the Property into an existing homeowners association to potentially include that operated by the Random Hills Homeowners Association or a "sub-association" organized in accordance with the governing documents of the same. In the event that reasonable efforts fail to incorporate the Property into the Random Hills Association, the Applicant shall notify DPZ with written evidence of the efforts and a single independent CHOA shall be established for the property. For the purposes of these Proffered Conditions, a sub-association of the Random Hills Homeowners Association or an independently established association shall be known as "the CHOA" and any associated Declaration of Covenants and related documents shall be known as "the CHOA Documents."

4. Dedication to CHOA. In conjunction with the appropriate site review processes, private streets, sidewalks, and common areas and amenities not otherwise

conveyed or dedicated to the County shall be dedicated to the CHOA and maintained by the same.

5. Public Access Easement. A public access easement in a form approved by the County Attorney shall be placed on the private streets, sidewalks, and trails within the approved development. The requirements of this Proffer Condition shall be disclosed in the CHOA Documents.

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

7. Pavement Section. All private streets shall be constructed pursuant to the Public Facilities Manual (the "PFM") pavement section standards as to the thickness appropriate for public subdivision streets based on level of vehicular traffic consistent with the development shown on the GDP. The CHOA Documents shall include provisions for monthly/annual assessments for private street maintenance. All prospective purchasers shall be advised of the existence of private streets, the associated public access easement and all other associated maintenance obligations required by these Proffered Conditions prior to entering into a contract of sale. The CHOA Documents shall stipulate that a reserve fund to be held by the CHOA be established for private street maintenance. The Applicant shall be responsible for placing the sum of

$5,000 in such reserve fund prior to the issuance of the first Residential Use Permit (the "RUP").

8. Length of Driveways. All driveways serving the approved residential units shall be a minimum of eighteen (18) feet in length from the inside of the sidewalk to the edge of the garage door.

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

10. School Contributions. Prior to approval of the first site plan for the approved development, the Applicant shall contribute the sum of $2,782.00 per dwelling unit, for each new dwelling unit approved on the final site plan to the Board of Supervisors for capital improvements to schools serving the Property.

11. Energy Conservation. All homes on the Property shall meet the thermal guidelines of the CABO Model Energy Program, or its equivalent as determined by DPWES for either gas or electric energy systems, as may be applicable.

12. ADUs. A minimum of four (4) ADUs will be provided within the development in accordance with Section 2-800 of the Zoning Ordinance. The ADUs will have an exterior façade treatment and design that is in substantial conformance with the market rate units. Parking shall be allocated for the ADUs in accordance with Article 11

of the Zoning Ordinance. To the extent necessary, spaces required and not available in driveways and/or garages shall be reserved for the ADU units.

II. ENVIRONMENTAL

13. Stormwater Management. Stormwater management and BMP measures shall be provided in accordance with the PFM, as determined by DPWES. Subject to DPWES approval, the Applicant may fulfill such requirements through the use of the existing regional facility north of Route 50. The Applicant shall further be responsible for any improvements/restoration to the drainage ways serving this off-site facility to the north, as determined necessary by DPWES to ensure proper transmission of run-off into the facility. As an alternative, if approved by DPWES, the Applicant reserves the right to use an existing off-site facility having sufficient capacity that was constructed by and currently maintained by the Owner. This facility, which is located within the adjacent development currently known as "Random Hills", is further referenced as Tax Map 56-2-((11))-A3-C1. If this alternative is pursued, prior to site plan approval, the Applicant shall demonstrate, to the satisfaction of DPWES, the existence of the easements and rights necessary to direct run-off into such off-site facility. It is further understood that a PFM Amendment and waiver to permit a change to the drainage divide are necessary to implement this alternative. The Applicant acknowledges that if the applicable stormwater management requirements cannot be fulfilled in substantial conformance with the requirements of these Proffered Conditions and the GDP, then a Proffered Condition Amendment will be necessary.

14. Erosion/Sedimentation. The functioning and integrity of all erosion and sedimentation controls (E & S Controls) required by DPWES shall be inspected the next

day following each storm event during the period of construction on site. If the E & S Controls have been damaged or breached, the E & S Controls shall be repaired within two business days of the storm event.

15. Limits of Clearing and Grading and Landscaping. The Applicant shall conform to the limits of clearing and grading, as shown on the GDP.

16. Landscaping. Landscaping shall be provided in substantial conformance with the landscaping concepts shown on the GDP. The minimum size of shade trees to be planted shall be three (3) inch caliper trees. If, during the process of site plan review, any new landscaping shown on the GDP cannot be installed in order to locate utility lines, trails, etc., as determined necessary by the Urban Forester, then an area of additional landscaping consisting of trees and/or plant material of a type and size generally consistent with that displaced, shall be substituted at an alternate location on the Property, subject to approval by the Urban Forester. The landscaped area between the driveways shall be a minimum of eight feet in width in accordance with the PFM.

17. Off-Site Landscaping. The Applicant shall diligently pursue the approval of the property owner of Tax Map 56-2-((11))-B2, to install off-site landscaping as shown on the Landscape Plan included on the GDP and if approval is not granted, supplemental plantings shall be provided on-site as recommended by the Urban Forester. In addition, the Applicant shall offer to the owner of Tax Map No. 56-2-((11))-B2 to scarify and remove the interparcel access and landscape the area. If such approvals are not granted, written documentation of this offer shall be provided to DPWES at the time of site plan approval.

18. Community Coordination. Concurrent with its submission to Fairfax County as part of the site plan review process, the Applicant shall provide a copy of the landscape plan and any subsequent revisions to the President of the Random Hills Homeowners Association for review. The landscape plan and streetscape treatment shall be in substantial conformance with the existing streetscape treatment (benches, arches, etc.) of the Random Hills development. Photographs of the existing streetscape shall be provided to the DPWES prior to building permit approval to demonstrate substantial conformance.

19. Tree Preservation Plan. The Applicant shall submit a tree preservation plan as part of the first and all subsequent site plan submissions. 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 Forester. 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 twenty (20) feet of the Property limits and any area listed as tree save. 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. Specific tree preservation activities that will maximize the survivability of trees identified to be preserved, such as: crown, pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

20. Tree Preservation Walk Through. The Applicant shall retain the services of a certified arborist or landscape architect and shall have the limits of clearing and

grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an Urban Forester 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. Trees not likely to survive construction due to their species and/or proximity of disturbance will also be identified at this time and the Applicant shall also be given the option of removing them as part of the clearing operation. Any tree designated for removal at the edge of the limits of clearing and grading or within tree preservation area shall be removed using a chain saw to avoid damage to surrounding trees. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees.

21. Tree Protection Fencing. All trees shown to be preserved on the Tree Preservation Plan shall be protected by tree protection fencing. Tree protection fencing consisting of four foot (4') high, 14 gauge welded wire attached to six foot (6') steel post driven eighteen inches (18") into the ground and placed no further than ten feet (10') apart shall be erected at the limits of clearing and grading as shown on the demolition and phase 1 and 2 erosion and sediment control sheets for the tree save and protection areas generally delineated on the GDP. All tree protection fencing shall be installed prior to any clearing and grading activities, including the demolition of any existing structures, within or adjacent to tree save areas. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist or landscape architect. Three days prior to the commencement of any clearing, grading or demolition activities, the

Urban Forester shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed.

22. Tree Transplanting. The Applicant shall provide a transplanting plan as part of the first and all subsequent site plan submissions for review and approval by the Urban Forester and implement the plan. However, to ensure responsible survivability in no event shall transplanting of deciduous trees greater than three (3") inch caliper be required. The plan shall be prepared by a professional with experience in the preparation of tree transplanting plans such as a certified arborist or landscape architect. Special attention and effort shall be made to transplant the cherry and maple trees located along Random Hills Road and replant along Random Hills Road. These efforts shall be coordinated with the Urban Forestry Division. The plan shall generally address the following items:

(a) The species and sizes to be transplanted

(b) The existing location of the trees

(c) The final location of the trees

(d) The proposed time of the year when the trees will be moved

(e) The transplant methods to be used, including tree spades size, if applicable

(f) Details regarding after transplant care, including mulching, fertilization, watering and if necessary, support measures such as cabling or staking

(g) Provision for the storage of the trees if necessary during construction

23. Asbestos Containing Soils. If, based on the soils analysis submitted as part of the site plan approval process, DPWES determines that a potential health risk exists due to the presence and associated disturbance of asbestos-containing rock on the Property, the Applicant shall:

(a) Take appropriate measures as determined by the Fairfax County Health Department to alert all construction personnel as to the potential health risks; and

(b) Commit to appropriate construction techniques as determined by DPWES in coordination with the Fairfax County Health Department to minimize this risk. Such techniques may include, but shall not be limited to, dust suppression measures during all blasting and drilling activities and covered transportation of removed materials presenting this risk, and appropriate disposal.

24. Geotechnical Investigation. If required by DPWES, the Applicant shall submit a geotechnical investigation of the site and implement such measures as determined by the investigation, subject to the satisfaction of DPWES

25. Noise Attenuation Measures. As provided in Proffers 25-30 of these Proffered Conditions, noise mitigation measures will be provided to ensure that a maximum exterior noise level of DNL 65 dBA will be achieved for any outdoor areas for the dwelling units and common open space; and that a maximum interior noise level of approximately DNL 45 dBA will be achieved for any dwelling unit that will be exposed to noise levels in excess of DNL 65 dBA.

26. Noise Study. The Applicant will submit a revised noise study using a methodology acceptable to DPZ for review and approval by DPWES and DPZ prior to the approval of the first site plan that will document attainment of the noise levels for exterior and interior levels, as stated above, based on final site topography and the best available information regarding future road and transit improvements within the right-of-way of Route 50. In addition, the noise study will provide noise impact projections (in terms of DNL dBA) for all levels of building facades. A "noise mitigation" sheet will be provided within any applicable plan submission. This sheet will include the following information: a graphic illustration of the location, design details, and height of the noise barrier and identifying all building facades for which interior noise mitigation measures will be provided; and a synopsis of the recommendations of the noise study(ies) and how mitigation will be accomplished. The Applicant shall demonstrate to DPWES and DPZ prior to site plan approval that the selected material for the noise wall will provide the noise mitigation described below. Any units requiring mitigation shall be identified on the site plan. This analysis must demonstrate compliance based on both existing and projected noise conditions for the Property to the year 2025.

27. Exterior Noise. In order to achieve compliance with the above maximum exterior noise levels, a noise barrier will be constructed along the northern boundary in the location shown on the GDP prior to issuance of any RUPs for the impacted units identified in the revised noise study. The noise wall(s) will be architecturally solid from ground up, with no gaps or openings. The noise wall materials shall be compatible to the color, texture and type of material used on the exterior façade of the approved units and may include: concrete, masonry products or cementatious products or combinations of

the same. The maximum height of the noise fence from final grade shall not exceed ten (10) feet. The findings of the revised noise study shall determine the ultimate height of the barrier, which may be subject to change based on final grades. If a noise wall is required to be taller than ten (10) feet, a Proffered Condition Amendment (PCA) shall be required.

28. Interior Noise. In order to mitigate interior noise to approximately DNL 45dBA, each dwelling impacted shall have the acoustical attributes set forth in the approved study. Any units requiring mitigation shall be identified on the site plan. Compliance of proposed building materials with these standards shall be demonstrated by the Applicant, to the satisfaction of DPWES, prior to the issuance of building permits for the units. RUPs shall not be issued until the satisfactory completion of a post-construction noise analysis to determine effectiveness of structural mitigation measure which will be employed with the proposed dwellings.

29. Noise Wall Disclosure. The Applicant shall disclose to all residential purchasers that the development will include a noise wall to reduce transportation generated noise. Maps depicting the location and height of the noise wall and proximity to the individual units will be provided as part of said disclosure at the time of the contract execution for each such initial sale. Notification of the height and location of the noise wall, as well as CHOA maintenance responsibility for it, shall also be provided in the CHOA documents. The disclosure document/CHOA disclosure shall also make it clear to any potential purchaser that the noise barrier may not preclude all perceptible traffic generated noise from the adjoining road surface and that, for the four (4) units

located parallel to Route 50 the noise wall will not mitigate noise for decks located at elevations above the top of the noise wall.

30. Noise Wall Landscaping. Landscaping within the Route 50 right-of-way shall be installed to mitigate the visual impact of the retaining/noise wall. Landscaping shall include evergreen trees 6-8 feet tall at the time of planting and understory plantings and/or non-invasive vines approved by the Urban Forester and subject to VDOT approval and acceptance of maintenance responsibilities.

31. Park Authority Contributions. The Applicant shall contribute $795 per dwelling unit to the Fairfax County Park Authority for park purposes and/or facilities in the area prior to the issuance of the first RUP.

IV. ARCHITECTURE/DESIGN

32. Architecture. The architectural design of the buildings shall be in substantial conformance with the elevations shown on the GDP. The following building façades will be constructed of predominantly brick: all front building facades, the building façade along Random Hills Road, the rear and side building façades along Route 50 and the sides of the unit opposite the site entrance and the two (2) units whose side abut the interior open space area. All building facades not constructed of brick shall be constructed of architectural pre-cast concrete which may include Hardi-board, Hardi-plank or a similar cementitious material. The trim on all buildings may be wood, fypon or a similar material. The elevations on sheets 8 and 9 are specific to the view from Random Hills Road. Modifications may be made with the final architectural designs if in substantial conformance with the elevations shown on the GDP.

33. Specialty Paving Treatment. The Applicant reserves the right to install specialty paving treatment within the private streets and sidewalks in substantial conformance with the treatment used in the Random Hills development. The materials may include but are not limited to unit pavers, stamped concrete or stamped asphalt. Photographs of the existing paving treatment within Random Hills shall be provided to DPWES at the time of site plan review to demonstrate substantial conformance.

34. Design of Street Furniture. The benches, sitting areas, entrance feature, and light standards generally described on sheets 6, 7, 10, 11 and 12 of the GDP shall be of a consistent with those used throughout the Random Hills community. Photographs of the existing benches and lights within Random Hills shall be provided to DPWES at the time of site plan review to determine that the proposed benches and lights are consistent with the existing benches and lights.

35. Street Lighting. Street light fixtures installed along the private streets shall incorporate lighting elements that are a full cut off type design. The lighting fixtures along Random Hills Road be in substantial conformance with the illustration shown on sheet 7 of the GDP will be in substantial conformance with the fixtures used in Random Hills and photographs of the existing lights within Random Hills shall be provided to DPWES at the time of site plan review to determine that the proposed lights are visually consistent with the existing lights.

36. Retaining Walls. Retaining walls, including the retaining wall visible from Route 50, shall be covered with a brick, stone and/or decorative masonry veneer. If different exterior materials are used for the retaining wall and noise wall, the materials

shall be architecturally compatible and shall also be compatible with the adjacent properties.

V. TRANSPORTATION

37. Traffic Signal. Prior to site plan approval, the Applicant shall submit a traffic signal warrant analysis to VDOT for the intersection of Random Hills Road and Ridge Top Road. The warrant study shall include build out of the subject site. If determined warranted by VDOT, the Applicant shall install the traffic signal. If the traffic signal analysis proves that warrants are not met at the time of site plan approval, the Applicant shall escrow funds for the pro-rata share of the traffic signal in an amount determined by the Fairfax County Department of Transportation (FCDOT). The escrow shall fulfill this proffer obligation to build the traffic signal.

38. Off-Site Road and Access Improvements. The Applicant shall construct or cause to be constructed, in the manner described below, the following off site improvements as generally shown on Sheet 13 of the GDP.

(a) Provision of a two hundred foot (200') raised median and double left turn lanes along Random Hills Road to Waples Mill Road.

(b) Reconstruction and/or re-striping of the existing forty-eight foot (48') roadway section on Random Hills Road from the entrance to the Fair Oaks Commerce Center (identified as Tax Map Parcel 56-2-((1))-33E) to Ridge Top Road as a five (5) lane undivided road with a geometry, lane configuration and median design that is in substantial conformance with that shown on Sheet 13 of the GDP to include with five (5) eleven (11') foot wide lanes with sidewalks

on each side of the road.

(c) Provision of one additional south-bound lane on Waples Mill Road between Random Hills Road and Lee Jackson Memorial Highway (Route 50).

(d) Provision of one additional north-bound lane on Waples Mill Road between Fairfax Center (identified as Tax Map Parcel 56-2-((1))-33H) and Lee Jackson Memorial Highway (Route 50).

The final design and configuration of each of these improvements shall be subject to review and approval by DPWES and VDOT. In the event DPWES and VDOT require additional lane width in connection with the fulfillment of item (a) and thereby causing the sidewalk, or any other portion of the proffered improvements, to be located outside the existing seventy foot (70') wide right-of-way, the Applicant shall be obligated to pursue acquisition of the necessary right-of-way or easements in accordance with the provisions below:

39. Implementation of the improvements in Proffer 38 shall be as follows:

(a) Prior to site plan approval, the Applicant shall escrow or otherwise provide Fairfax County the amount necessary to provide for the construction costs (not including right-of-way acquisition costs which are addressed below) for each of the off-site improvements described above. The amount, type and form of the surety shall be determined by DPWES Bonds and Agreement Branch Department and the Office of the County Attorney and shall be in accordance with the Fairfax County Bond and Price estimates in effect at the

time of site plan approval.

(b) In order to implement the improvements in Proffer 38, the Applicant shall attempt to acquire, and then if successful, shall dedicate such off-site right-of-way and easements as are necessary to complete the proffered improvements at the Applicant's expense. The Applicant shall use its good faith efforts and offer a reasonable fair market value for said right-of-way and easements and demonstrate these efforts to DPWES. For each of the improvements described in Proffer 38, in the event the Applicant is successful in acquiring the right-of-way and easements needed to construct the off site improvements within one (1) year of final site plan approval, the Applicant shall construct such off-site improvements and upon inspection and acceptance of each individual improvement by Fairfax County DPWES and VDOT, into the state system for maintenance, the obligations of any surety for the individual completed improvements shall be released.

40. Right-of-Way Acquisition/Condemnation. If, one (1) year subsequent to final site plan approval, the Applicant is unable to bring about the dedication by others and the necessary right-of-way and easements, or to acquire by purchase the right-of-way or easements at fair market value, as determined by an MAI (Member of the Appraisal Institute) appraisal, then the Applicant shall request the Board of Supervisors to condemn the necessary land and/or easements.

It is understood that the Applicant's request to the Board of Supervisors for condemnation will not be considered until the Applicant has demonstrated to the satisfaction of the County their failed attempts to acquire the right-of-way and easements and the Applicant has forwarded the request in writing to the Division of Land Acquisition or other appropriate County official, accompanied by (1) plans, plats and profiles showing the necessary right-of-way or grading easements to be acquired, including all associated easements and details of the proposed transportation improvements to be located on said right-of-way property; (2) an independent appraisal of the value of the right-of-way property to be acquired and of all damages to the residue of the affected property; (3) a sixty (60) year title search certificate of the right-of-way property to be acquired; and (4) an escrow in an amount equal to the appraised value of the property to be acquired and of all damages to the residue which can be drawn upon by the County. It is also understood that in the event the property owner of the property to be acquired is awarded with more than the appraised value of the property and to the damages to the residue in a condemnation suit, the amount of the award in excess of the escrow amount shall be paid to the County by the Applicant within forty-five (45) days of said award. In addition, the Applicant agrees that all reasonable and documented sums expended by the County in acquiring the right-of-way and necessary easements shall be paid to the County by the Applicant within sixty (60) days of written demand.

In the event the County is successful is acquiring the off-site right-of-way and easements necessary to fully complete any or all of the these off-site improvements, the Applicant shall construct the improvement(s) for which right-of-way is available within two years of such right-of-way acquisition. It is expressly understood that in the event

the County abandons efforts or does not acquire the aforesaid right-of-way and/or easements by means of its condemnation powers, the Applicant is relieved of any responsibility under this proffer to construct any off-site portion of the aforesaid road improvement specifically affected by the unavailability of the right-of-way, and the escrow for the improvements set forth in Proffer 39(a) shall be maintained by the County for road improvements in the area subject to the credits referenced in Proffer 41 and 42.

41. Fairfax Center Area Road "FCAR" Fund. The Applicant shall contribute to the FCAR Fund in accordance with the Procedural Guidelines adopted by the Board of Supervisors on November 22, 1982, as amended, subject to credit for all creditable expenses as determined by the County Department of Transportation and/or DPWES. The expenses that may be creditable against the FCAR Fund include all those referenced in Proffer 42.

42. FCAR Contributions. Prior to site plan approval, the Applicant shall provide documentation to the County that the value to survey, design and construct all of the transportation improvements and multiple rights-of-way dedication required by the Proffers is at a minimum $1,450,500 (collectively, the "off-site improvement costs"). The Applicant shall be entitled to receive credit against this amount as set forth below:

(a) The value of any right-of-way related to the proffered off-site transportation improvements dedicated to the County at no cost. The market value of the right-of-way dedication shall be determined by an MAI;

(b) The value of any off-site improvements that are constructed by others, as described in Proffer 38, shall for the purpose of

implementing this Proffer, be credited on the basis of 75¢ for each $1.00 spent by others. The construction costs completed by others shall be based on the current Fairfax County Bond Price Estimate. Any proffered improvements completed by others shall serve to extinguish the Applicant's obligation as to that improvement and any associated letters of credit, escrow or surety for that improvement shall be released and/or returned to the Applicant;

(c) The cost of any off-site transportation improvements that are constructed by the Applicant set forth in Proffer 38 above;

(d) If the sum of (a) and (c) above is less than $1,450,500 (as may be reduced pursuant to (b) above), as verified by FCDOT, the difference shall be paid by the Applicant to the FCAR. If applicable, such calculation and payment by the Applicant shall be made upon the earliest to occur of (1) the completion of all other requirements of Proffers 38-41 (2) the abandonment by the County of its efforts to acquire the right-of-way and/or easements under Proffer 40 or 3) final bond release.

43. Right-of-Way. At the time of site plan approval or upon demand, whichever occurs first, right-of-way dedicated in conjunction with these Proffered Conditions shall be conveyed to the Board of Supervisors in fee simple and shall, with the exception of the right-of-way and easements credited to the FCAR, be subject to the provisions of Paragraph 5 of Section 2-308 of the Zoning Ordinance.

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These Proffered Conditions may be executed in counterparts and the counterparts shall constitute one and the same proffer statement.

RANDOM HILLS INVESTMENT, LLC
Applicant/Contract Purchaser (Contract Assignee)
Tax Map # 56-2-((11)), Parcel B1

By: _____
Name: Eliot D. M. Powell
Its: Manager

EXXON LAND DEVELOPMENT, INC.
Title Owner of Tax Map 56-2-((11)), Parcel B1

By: _____
David M. Alexander
President

BASHEER/EDGEMOORE-PROPERTIES, L.L.C.
Contract Purchaser (Contract Assignor)
Tax Map # 56-2-((11)), Parcel B1

By: DIANE COX BASHEER PROPERTIES, L.L.C., a Virginia limited liability company, its Managing Member

By: _____
Diane Cox Basheer, President

By: THE PILLARS, LLC,
a Virginia limited liability company, its Managing Member

By: FIVE PILLARS, INC., its Managing Member

By: _____
Al-Husain Y. Al-Hussain,
President

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