

**PROFFERS**  
**Midland Road LLC – Ridgewood**  
**RZ 2005-SP-019**

**June 20, 2006**

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, the property owners and Applicant in this rezoning proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference No. 56-2-((1))-37 (hereinafter referred to as the "Property") will be in accordance with the following conditions if, and only if, said rezoning request for the PRM District is granted by the Board of Supervisors of Fairfax County, Virginia (the "Board"). In the event said application request is denied or the Board's approval is overturned by a court of competent jurisdiction, these proffers shall be null and void. The Owners and the Applicant ("Applicant"), for themselves, their successors and assigns, agree that these proffers shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board, in accordance with applicable County and State statutory procedures. The Proffered Conditions are:

**I. GENERAL**

1. Substantial Conformance. Subject to the proffers and the provisions of Article 16 of the Zoning Ordinance, under which minor modifications to an approved development plan are permitted, development of the Property shall be in substantial conformance with the Conceptual Development Plan/Final Development Plan ("CDP/FDP"), prepared by Urban Engineering & Associates, Inc., and dated April 13, 2005, as revised through May 18, 2006. Notwithstanding that the CDP/FDP is presented on thirteen (13) sheets, it shall be understood that the CDP shall be only those elements of the plans that depict the

number and the general location of points of access, the amount and location of landscaped open space, peripheral setbacks, limits of clearing and grading, building heights, the total number, type, uses and the general location of buildings and roads (the “CDP Elements”). The Applicant reserves the right to request a Final Development Plan Amendment (“FDPA”) for elements other than the CDP elements from the Planning Commission for all or a portion of the CDP/FDP in accordance with Section 16-402 of the Zoning Ordinance if such an amendment is in accordance with the approved CDP and these proffers.

2. Minor Modifications. In addition to that described above, pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications to the CDP/FDP and these proffers may be permitted as determined by the Zoning Administrator.
3. Maximum Density. The maximum floor area ratio (“FAR”) permitted on the Property shall be 1.2. Based on this maximum FAR, the maximum gross floor area (“GFA”) that may be constructed shall be 941,166 square feet. The Applicant reserves the right to construct a lesser amount of GFA provided that the buildings and Property remain in substantial conformance with that shown on the CDP/FDP as determined by the Zoning Administrator. Similarly, subject to the 1.2 FAR limitation of this proffer, the number of units described on the CDP/FDP may be adjusted upward or downward based on the final design, provided the maximum number of dwelling units shall not exceed 500 units and minimum number of dwelling units shall at least be 400 units.
4. Phasing. Build-out of the Property may proceed in phases. The FAR, GFA and/or number of dwelling units per acre constructed within a respective phase of the project may exceed the maximum density limitations set forth in Proffer 3 so long as such

maximum density limitations are not exceeded over the entirety of the Property that is the subject of the rezoning. The creation of the landscaped open space areas and associated improvements may occur in phases, concurrent with the phasing of development/construction of the Property. As such, the total area of landscaped open space provided at any given phase of development shall not be required to be equivalent to the 20% overall landscaped open space; provided that the total combined landscaped open space at the completion of all development shall satisfy the overall landscaped open space requirement as shown on the CDP/FDP. Notwithstanding the above, if the Applicant develops Building 4 with the office/retail option in accordance with the CDP/FDP, then such Building shall be developed in a single phase and such phase shall include the entire office and retail component.

5. Density Credit. Density credit shall be reserved for the Property as provided by Section 2-308 of the Zoning Ordinance for all dedications described herein and/or as shown on the CDP/FDP or as may reasonably be required by Fairfax County, VDOT or others at the time of site/subdivision plan approvals.
6. Architecture. The final architectural design shall be in substantial conformance with the general type, quality and proportion of materials depicted in the illustrative perspectives, elevations, and sections shown on the CDP/FDP. Building facades not shown in the CDP/FDP shall be consistent with the general type, quality and proportion of materials depicted in the illustrative perspectives, elevations, and sections shown on the CDP/FDP. Rooftop mechanical equipment will be shielded from view from the ground-level of adjacent streets. Vinyl siding shall not be used on the exterior of any building, except for

facades facing the interior of the amenity courtyards and parking garages for Buildings 2.2 and 3.

7. Parking Garage Façade(s). In addition to the landscape screening shown on the CDP/FDP, the facades of parking garages labeled P-1 and P-4, and the eastern face of the parking garage labeled P-3 on the CDP/FDP shall be constructed such that a minimum of thirty (30%) of the exposed facades shall be brick of a tone that is consistent with the related companion building. Such facades shall also include, as appropriate to the design of the companion building, one or more of the following features: horizontal and/or vertical reveals, insets of contrasting color, ornamental metal railing or decorative metal detailing along the top panel or other similar treatment that breaks up the continuous façade of the garage in a manner that compliments the architectural details of the related companion building. Exterior lighting fixtures, if included, shall be identical in style to the related companion building.

Additionally, the height of all horizontal panels on all parking garages shall be sufficient to reasonably ensure that the potential glare from headlights of automobiles parked inside the parking garage is screened. Lighting internal to the parking garages shall be located between the beams to prevent glare. Lighting on the upper levels of the parking garages shall be fully cut off and be equipped to prevent glare resulting from direct visibility of light sources onto adjacent residential property. Where fixtures are mounted along the edge of the topmost deck of a parking garage, an opaque house-side shield shall be affixed onto the fixture or adjacent post to eliminate glare so that the lighted portion of the fixture shall not be visible from adjacent residential property.

8. Parking Spaces. At least two percent (2%) of the residential parking spaces within the parking garage labeled P-2 shall be provided for visitors of the residential units of Buildings 2.1 and 2.2. At least two percent (2%) of the residential parking spaces within the parking garage labeled P-3 shall be provided for visitors of the residential units of Buildings 3. Such visitor spaces shall be marked as visitor and shall be located so as not to require the permission of any resident to utilize the parking space.
9. Loading Spaces. Loading space(s) within a parking garage as indicated on the CDP/FDP, shall have sufficient garage clearance to accommodate delivery trucks in accordance with the standards for clearance of loading spaces in Section 11-202(10) of the Zoning Ordinance.
10. Unifying Elements. All street furniture, including garbage cans, benches and lamp posts, shall be consistent, both in terms of materials and design, throughout the development. Such street furniture shall be consistent in quality and character with the illustrative examples included in the CDP/FDP.
11. Signage. All signage provided on the Property shall comply with Article 12 of the Zoning Ordinance. Any permanent freestanding signs shall be monument type and shall be generally located as shown on the CDP/FDP. Pole signs shall not be permitted on the Property. No illuminated signs shall be permitted on the façade of Building 1 facing Ridge Top Road. All directional and wayfinding signage shall be consistent, both in terms of materials and design, throughout the development.
12. Retail Signage. In addition to the restrictions of Proffer 11, all non-residential façade signage, except for that on Building 1 and a hotel use in Building 4, shall be subject to following additional restrictions. Building mounted signs shall only be channel letter

signs or blade signs, as limited below. For purposes of this Proffer 12, channel letter signs shall consist of individual letters mounted directly to the building or to a sign band. All channel letter signs shall be of a consistent scale with others in the development, shall be generally located on a consistent elevation with other channel letter signs. Channel letter signs, if externally lit, shall only be down lit, with lighting provided from above the channel letters. For purposes of this Proffer 12, blade signs shall be flat signs hung perpendicular to the building façade. Blade signs shall not exceed four (4) square feet and shall only be located under an awning. Open face neon signs and box signs with flat, plexiglass faces shall not be permitted.

## **II. USES**

13. Secondary Uses. All secondary uses referenced below shall be deemed to be “specifically designated on the FDP” such that approval of a separate special exception shall not be required to initiate such a use pursuant to Section 6-405 of the Zoning Ordinance. Other principal and secondary uses permitted in the PRM Zoning District that are not specifically listed in this Proffer may be permitted with the approval of a FDPA and/or a special exception or special permit as required. A PCA shall not be required as long as the proposal remains in substantial conformance with the CDP.

- (A) Affordable dwelling units.
- (B) Bank teller machines, unmanned (not drive-through).
- (C) Business service and supply service establishments.
- (D) Fast food restaurants (not drive-through).
- (E) Eating establishments.
- (F) Commercial Recreational Uses. Such uses may include billiard and pool halls; health clubs; and other similar commercial recreational uses.

- (G) Financial institutions (not drive-through).
- (H) Garment cleaning establishments (not drive-through).
- (I) Hotels. As shown on the CDP/FDP, and at the option of the Applicant, one such use may be located in Building 4, and shall total a minimum of 50,000 square feet and a maximum of 100,000 square feet of GFA.
- (J) Offices. As shown on the CDP/FDP, such use shall be located in Building 1 and, at the option of the Applicant, in Building 4, and shall total a minimum of 150,000 square feet and a maximum of 200,000 square feet of GFA.
- (K) Personal service establishments.
- (L) Quasi Public Uses. Such uses shall include cultural centers, museums and similar facilities; and private clubs and public benefit associations.
- (M) Repair service establishments.
- (N) Accessory Uses and Home Occupations as permitted by Article 10 of the Zoning Ordinance. Such uses shall include ground-floor areas of the buildings devoted to business centers, lobbies, fitness centers, leasing/sales/management offices, recreational/party rooms or other similar uses devoted primarily to supporting the residential buildings.
- (O) Quick-service food stores.
- (P) Light public utility uses.
- (Q) Retail sales establishments. As shown on the CDP/FDP, such use shall be located in Building 2 and, at the option of the Applicant, in Building 1 and/or Building 4, and shall total a minimum of 20,000 square feet and a maximum of 42,100 square feet of GFA. In such areas labeled "Retail" on the CDP/FDP, additional permitted uses shall include uses B, C, D, E, F, G, H, J, K, M, O and P, as identified in this proffer.

**14. Residential Building Amenities.** In addition to the amenity courtyards shown on the CDP/FDP, the Residential Buildings shall contain interior amenities for the residents of each respective building. These interior amenity uses shall include, but not be limited to, a fitness center, conference/business center, theater and game/billiards room. At least 6,000 sq. ft. of GFA in Building 3 shall be devoted to such interior amenities. A total of

at least 6,000 sq. ft. of GFA shall be devoted to such interior amenities in Building 2.1 and Building 2.2. Such interior amenities provided in Building 2.1 or Building 2.2 shall be available to the residents of both Building 2.1 and Building 2.2.

### III. TRANSPORTATION

15. Dedication for Government Center Parkway. The Applicant shall dedicate and convey in fee simple to the Board the right-of-way needed to extend Government Center Parkway through the Property as a four-lane median divided public road as shown on the CDP/FDP. Such right-of-way shall be of variable width, and shall be located within the Property in the area as generally shown on the CDP/FDP. The exact location and amount of the right-of-way to be dedicated shall be determined in relation to the final engineering design of Government Center Parkway Extended as determined by DPWES and VDOT. Dedication of such right-of-way shall be made prior to or concurrent with site plan approval for the first phase of residential and/or non-residential development on the Property or upon request from Fairfax County, whichever occurs first.
16. Government Center Parkway. Subject to VDOT and DPWES approval, the Applicant shall construct Government Center Parkway as a four-lane median divided public road within the Property in the area as generally shown on the CDP/FDP ("Government Center Parkway Extended"). Government Center Parkway Extended shall be constructed prior to the issuance of the first Residential Use Permit ("RUP") or Non-Residential Use Permit ("Non-RUP") for residential or non-residential uses on the Property. As required by VDOT and subject to VDOT approval, the Applicant shall design the intersection of Government Center Parkway Extended and Waples Mill Road to properly align. For purposes of this Proffer, "constructed" shall mean open and available for use by the public but not necessarily accepted by VDOT into the state secondary road system for

maintenance. The Applicant shall not be fully released from any applicable performance bonds for the public improvements prior to acceptance of the public improvements by VDOT into the state secondary road system for maintenance.

17. Dedication for Lee Highway. The Applicant shall dedicate and convey in fee simple to the Board right-of-way for public street purposes the area shown on the CDP/FDP. Dedication of such right-of-way shall be made prior to, or concurrent with, site plan approval for Building 3 on the Property, or upon request from Fairfax County, whichever occurs first.

18. Lee Highway Improvements. Subject to VDOT and DPWES approval, the Applicant shall convert the existing right-turn lane into an additional west-bound lane along the frontage of the Property with Lee Highway and construct a new right-turn deceleration lane in the location as generally shown on the CDP/FDP ("Lee Highway Improvements"). Lee Highway Improvements shall be constructed prior to the issuance of any Non-RUP or RUP for Building 3. For purposes of this Proffer, "constructed" shall mean open and available for use by the public but not necessarily accepted by VDOT into the state secondary road system for maintenance. The Applicant shall not be fully released from any applicable performance bonds for the public improvements prior to acceptance of the public improvements by VDOT into the state secondary road system for maintenance.

In addition to the Lee Highway Improvements and concurrent with the same, the Applicant shall escrow or otherwise provide Fairfax County the amount necessary to provide for the construction costs for a service drive across the Lee Highway frontage. The amount, type and form of the surety shall be determined by DPWES Bonds and

Agreement Branch 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 for Building 3.

19. Waples Mill Road/Government Center Parkway Traffic Signal. Concurrent with the submission of a public improvement plan/site plan for Government Center Parkway Extended, the Applicant shall submit a traffic signal warrant analysis to VDOT for the intersection of Waples Mill Road and Government Center Parkway Extended. The warrant study shall be based on the full build-out of the approved density on the Property. If such a signal is determined to be warranted by VDOT, then the Applicant shall design, construct and equip a traffic signal at the Government Center Parkway Extended/Waples Mill Road Intersection, including, if deemed appropriate by FCDOT and VDOT, pedestrian countdown signals ("Waples Mill Signal"). Such signal shall include a pedestrian cycle at all crossings, as deemed appropriate by VDOT. Such signal shall be constructed prior to issuance of a Non-RUP or RUP for any phase of development on the Property. If the signal is determined not to be warranted by VDOT at the time of the public improvement plan/site plan approval, the Applicant shall escrow funds for the future construction of Waples Mill Signal, in an amount as determined by FCDOT. Such escrow shall fulfill this proffer.

20. Ridge Top Road/Government Center Parkway Traffic Signal. Prior to the issuance of non-RUPs and/or RUPs for 500,000 sq. ft. of GFA on the Property, the Applicant shall submit to VDOT a warrant study, based on full build-out of the approved density on the Property, for a traffic and pedestrian signal at the Government Center Parkway Extended/Ridge Top Road Intersection. If such a signal is determined to be warranted by

VDOT, then the Applicant shall diligently pursue designing, equipping, and constructing the signal, including, if deemed appropriate by FCDOT and VDOT, pedestrian countdown signals. Such signal shall include a pedestrian cycle at all crossings, as deemed appropriate by VDOT and FCDOT.

21. Waples Mill Entrance. The Applicant shall design and construct a right-turn taper on Waples Mill Road as part of the site plan for Building 4 and/or parking garage labeled P-4, as appropriate, in the location shown on the CDP/FDP. The final design and configuration of the taper shall be subject to review and approval by DPWES and VDOT.
22. Alternate Waples Mill Entrance. The entrance to Waples Mill Road, as shown on the CDP/FDP (the "Access"), shall be closed at such time as the adjacent parcel known as Tax Map 56-2-((1))-37A ("Parcel 37A") is approved for redevelopment by the County and permanent public access is provided between the Property and Waples Mill Road (the "Alternate Access"), provided the Alternate Access is:
  - (A) Constructed, open and publicly accessible by Building 4;
  - (B) Designed and approved by the Fairfax County Department of Transportation ("FCDOT") and VDOT to accommodate the traffic generated by both Parcel 37A and the Property; and
  - (C) Located within 300' of the Access.

Upon such time as the Alternate Access meets the above criteria, as determined by FCDOT, then, upon demand by FCDOT, the Applicant shall grant easements reasonably necessary, including temporary grading and construction easements, to allow the owner of Parcel 37A ("37A Owner") or the County to close, scarify, and landscape the Access. The Applicant shall bear no cost for the construction and/or approval of the Alternate Access, beyond the escrowed funds discussed below. Such landscaping will be

substantially equivalent to that shown on the CDP/FDP for the Waples Mill Road frontage. In addition, at the time of site plan approval for Building 4, the Applicant shall escrow funds for the future closing, scarification and landscaping of the Access to be utilized by the entity that will be doing such work. The final amount of such escrow shall be determined in accordance with the County's per unit price schedule. The existence of this potential access closure, the responsibility to grant appropriate easements, and potential additional landscaping responsibilities shall be disclosed in common association documents.

23. 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 FCDOT and/or DPWES.
24. Vehicular Interparcel Connection to the East. Prior to site plan approval for either Building 2 or Building 3, whichever occurs first, the Applicant shall convey a public access easement, in a form acceptable to the County Attorney, over a portion of the Property to allow for future interparcel access to connect the internal private streets on the Property to Parcel 37A, as defined in Proffer 22 and as designated on the CDP/FDP. The existence of this future interparcel access and the potential additional maintenance responsibilities shall be disclosed in common association documents. Should such interparcel access be constructed, nothing in this Proffer shall prevent the establishment of reasonable maintenance and cost-sharing provisions between the respective landowners.

25. Additional Pedestrian Interparcel Connections to the East. In addition to the primary automobile-related interparcel connection provided for above, after the time the County approves the redevelopment on Parcel 37A, as defined in Proffer 22, and the 37A Owner or the County requests that the Applicant grant additional pedestrian interparcel connections, in a form acceptable to the County Attorney, to connect the Property and Parcel 37A with a unified pedestrian network, the Applicant shall grant such easements at no cost provided: 1) such pedestrian connections shall be located along the common boundary between the Property and Parcel 37A; 2) any such potential pedestrian connection shall not conflict or interfere with improvements on the Property or cause improvements on the Property to become non-compliant with any federal, state or local code, ordinance or regulation; and 3) the 37A Owner shall bear the responsibility and cost of obtaining the necessary governmental approvals and easements. In addition to the potential interparcel access easements discussed above, the Applicant shall convey to the County, in a form acceptable to the County Attorney, public access easements over the two possible future pedestrian connections shown on the CDP/FDP at the time of site plan approval for the Amenity Open Space. Should such pedestrian connections be constructed, nothing in this Proffer shall prevent the establishment of reasonable maintenance and cost-sharing provisions between the respective landowners. The potential for such interparcel connections and the potential additional maintenance responsibilities shall be disclosed in common association documents.

26. Implementation of the Transportation Improvements. In order to implement the transportation improvements referenced in the above proffered conditions, 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, in the event the Applicant is successful in acquiring the right-of-way and easements needed to construct the off-site improvements, the Applicant shall construct such off-site improvements.

27. Right-of-Way Acquisition/Condemnation. If, one (1) year subsequent to the initial request by the Applicant to obtain the necessary right-of-way and easements, 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 to condemn the necessary land and/or easements.

It is understood that the Applicant's request to the Board 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 in acquiring the off-site right-of-way and easements necessary to fully complete any or all of these off-site improvements, the Applicant shall construct the improvement(s) for which right-of-way is available. 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 transportation improvements specifically affected by the unavailability of the right-of-way, and the Applicant shall escrow, as appropriate, for any uncompleted portions of the transportation improvements. Such escrowed funds shall be utilized by the County for road improvements in the area.

#### **IV. TRANSPORTATION DEMAND MANAGEMENT STRATEGIES (TDM)**

28. Bike Parking. In addition to the TDM Plan, the Applicant shall provide secure, weather-protected, bicycle storage for the Residential and Office Buildings, and provide bicycle racks for visitors/tenants/employees. At a minimum the Applicant shall provide bicycle storage sufficient for at least ten (10) bicycles for each building on the Property. Further

the Applicant shall provide shower facilities within Building 1 and Building 4, provided Building 4 is developed with an office use, for use by tenants/employees.

29. TDM Plan. TDM Strategies, as detailed below, shall be utilized by the Applicant to reduce trips during peak hours. The TDM strategies shall be utilized to reduce the P.M. peak hour vehicular trips by a minimum of twenty (20%) percent, based on the trip generation rates/equations applicable to such uses as set forth in the Institute of Transportation Engineers, Trip Generation, 7th Edition. Residents and employees shall be advised of all TDM strategies by the TMC, as defined below, with periodic written materials summarizing the availability of the TDM strategies. Transportation coordination duties shall be carried out by a designated property manager(s) or transportation management coordinator(s) (the "TMC"). The TMC position may be a part of other duties assigned to the individual(s). The following is a non-inclusive list of strategies that shall be implemented to meet the trip reduction goal:

- (A) Within three (3) months following approval of the first building permit on the Property, the Applicant shall designate an individual to act as the TMC for the property whose responsibility will be to implement the TDM strategies with on-going coordination with FCDOT. The TMC shall also be responsible for coordination and communication with any subsequent common association;
- (B) Participation in the Fairfax County Ride Share Program;
- (C) Dissemination of information regarding Metrorail, Metrobus, ride-sharing and other relevant transit options in sale/leasing packages;

- (D) Provide Metro maps, schedules and forms, ride-sharing and other relevant transit option information to residents, tenants and employees through either a common website or a newsletter to be published at least twice a year;
- (E) Provide a pedestrian-friendly sidewalk system to encourage pedestrian circulation;
- (F) Provide Smart Trip cards (or a similar transit fare cards) in the amount of twenty-five dollars (\$25) to all new residents of the project upon execution of their initial lease or at closing, as applicable;
- (G) Provide a transit stop, to be located on the Property or within the public right-of-way, with the necessity and location of such a stop to be determined by FCDOT and VDOT. Such a stop shall include, at a minimum, adequate signage for the transit patrons;
- (H) Buildings shall be hardwired to provide high capacity, high bandwidth communication lines, or the equivalent wireless access. Building management shall encourage individual employers/tenants to provide employees with access to their networks via such lines or via wireless connections; the Applicant shall further provide a common area in one of the residential buildings with business facilities, which may include, but not be limited to, wireless internet access, fax machine, photocopier and

desktop computers. Such common area shall be accessible by all residents on the Property;

- (I) Provide information and coordination of possible carpool and vanpool options to the residents, tenants and employees; and
- (J) The Applicant, or successor common association, shall participate in a future Fairfax Center Area shuttle or transit service (the "Shuttle") provided that such Shuttle provides reasonable and consistent peak-hour service to the Property resulting in trip reductions and such financial participation in the Shuttle service is proportional to the actual usage of the Shuttle by future residents/visitors/tenants and employees of the Property and to the participation of other users of the Shuttle.

Concurrent with the designation of the TMC, the Applicant shall establish and fund a TDM account in the initial amount of \$50,000. Funds in the TDM Account shall be utilized by the TMC each year to implement the TDM strategies. The TDM account shall be managed by the TMC. A line item for further funding of the TDM account shall be included in the common association budget upon the establishment of the common association. The common association documents shall provide that the TDM account shall not be eliminated as a line item in the common association budget and that funds in the TDM account shall not be utilized for purposes other than to fund TDM strategies. The TDM account shall be annually funded by pro-rata assessments of residents and commercial owners as provided in the common association documents. Such funding shall be a minimum of \$25,000 per year, adjusted annually for inflation

based on the Consumer Price Index. The TMC shall consult with FCDOT to develop and implement the TDM strategies. TDM strategies C, D, F, and I shall be established prior to, or current with, the issuance of the first RUP on the Property. All other TDM strategies shall be established concurrent with the issuance of the first RUP or Non-RUP for each respective building, as appropriate for each TDM strategy.

One (1) year following the issuance of the first RUP on the Property, the effectiveness of the TDM strategies shall be evaluated using surveys and/or traffic counts prepared by the TMC in cooperation with FCDOT. The Applicant shall submit to FCDOT the result of the surveys in order to determine travel characteristics and whether the required reduction in trips has been achieved. Such TDM surveys shall be conducted annually for at least three (3) years following the initial survey. If the TDM surveys show that the trip reduction objective is being met, then the Applicant shall proceed with the TDM strategies as implemented and shall provide continuing surveys on a bi-annual basis.

In the event the trip reduction objective has not been met after any TDM survey and/or traffic count, the Applicant shall meet with FCDOT to review the strategies in place and to develop modifications to the TDM strategies, adopt additional TDM strategies and/or conduct additional traffic counts, as deemed appropriate by FCDOT, that will facilitate meeting the trip reduction objective. The Applicant shall continue to conduct annual TDM surveys until such time as the surveys and/or traffic counts demonstrate that the revised TDM strategies have been effective in meeting the trip reduction objective, at which time the TDM surveys may be conducted bi-annually, so long as the trip reduction objective continues to be met. If the trip reduction objective is

not met for two consecutive surveys and/or traffic counts, then the Applicant, or successor common association, shall contribute \$50 per residential unit for which a RUP has been issued on the Property and \$0.10 per occupied square foot of commercial space to the TDM account to be utilized on supplemental TDM strategies approved in cooperation with FCDOT. The trip reduction objective, the TDM strategies and potential for such TDM penalty shall be disclosed in common association documents.

**V. WORK-FORCE/AFFORDABLE HOUSING**

30. ADUs. The Applicant shall provide Affordable Dwelling Units (ADUs) in accordance with Part 8 of Article 2 of the Zoning Ordinance for all residential buildings subject to the provisions of Part 8 of Article 2. Prior to site plan approval for any building required to provide ADUs, the Applicant shall provide calculations for the required number of ADUs in such a building to DPZ for review and approval. Nothing contained in these proffers shall be deemed to alter the administration of the ADUs or the number of ADUs required to be provided pursuant to Part 8 of Article 2.

31. Intent. Proffers 31 to 46 set forth the elements of a work-force housing program that is intended to provide housing units on the Property that will be affordable to future residents who have a median household income of up to 83% of the Washington D.C. metropolitan statistical area median household income ("MHI"), in order to preserve and expand the housing options available in the County.

32. Definitions: The following terms used in these Proffered Conditions shall be defined as follows, unless specifically modified:

*Market-Rate Units*. Dwelling units approved on the Property that are not subject to either the price/rental restrictions of Part 8 of Article 2 of the Zoning Ordinance or these proffered conditions.

*Work-Force Units.* Dwelling units approved on the Property subject to the price/rental restrictions of these proffered conditions, but not required pursuant to Part 8 of Article 2 of the Zoning Ordinance.

33. Work-Force Units. A total of eight percent (8%) of the dwelling units built on the Property shall be Work-Force Units and/or ADUs. The creation of Work-Force Units may occur in phases, concurrent with the phasing of development/construction of the Property and may be located entirely within any single residential building on the Property. As such, ADUs and/or Work-Force Units provided at any given phase of development shall not be required to be equivalent to the eight percent (8%); provided that the total number of ADUs and Work-Force Units at the completion of all development shall satisfy the eight percent (8%) overall requirement. Notwithstanding the above, if the percentage of ADUs provided on the Property exceeds eight percent (8%) of the total number of dwelling units, then only ADUs shall be provided, and the Applicant shall not be required to provide Work-Force Units pursuant to these Proffered Conditions.

*Sale.* The Work-Force Units approved on such site plans, if offered as for-sale units, shall be provided to owner(s) whose MHI is up to eighty-three percent (83%) of MHI. ("Work-Force Sale Units")

*Rental.* The Work-Force Units approved on such site plans, if offered as rental units, shall be provided to renter(s) whose MHI is up to eighty-three percent (83%) of MHI. ("Work-Force Rental Units")

When the required Work-Force Units that are calculated in accordance with the above paragraphs result in a fractional unit less than 0.5, the number shall be rounded down to the next whole number and any fractional unit greater than or equal to 0.5 shall be rounded up to next whole number.

34. Designation on Approved Site Plan. The approved site plan for the respective residential buildings shall designate the number of Work-Force Units, ADUs, and Market-Rate Units by bedroom count. The Applicant shall determine the interior amenities, including the number of bedrooms, for each Work-Force Unit provided. The interior amenities, at a minimum, shall be equivalent to the interior amenities provided for ADUs. If the development of the residential buildings is phased or developed in sections, then the approved site plan for the respective residential buildings shall also contain tabulations of the total number of Work-Force Units, ADUs and Market-Rate Units by bedroom count on the Property.
35. Timing of Provision of the Work-Force Units. RUPs shall not be issued for more than eighty percent (80%) of the total dwellings units approved on the Property, until RUPs have been issued for the required Work-Force Units required pursuant to this Proffer. Furthermore, the development agreement and its security (bond, letter of credit etc.), shall not be released until all of the Work-Force Units approved on the respective site plan have been issued RUPs.
36. Subject to the Administrative Provisions of the ADU Ordinance. It is intended that the Work-Force Units shall be administered in a like-fashion as ADU Units pursuant to Part 8 of Article 2 of the Zoning Ordinance in effect at the time of the execution of these proffered conditions. The following specific provisions of the Zoning Ordinance shall apply to administration of the Work-Force Units: Sections 2-805, 2-807, 2-810, 2-811, 2-812, 2-813, 2-817, and 2-818, including the recordation of the appropriate restrictive covenants in the land records of Fairfax County, except where such provisions directly conflict with these Proffered Conditions. When these Proffered Conditions conflict with

the administrative section(s) of the Zoning Ordinance, these Proffered Conditions shall control, including, but not limited to, the calculation of the sale/resale price and rental rates of Work-Force Units, the right of the Applicant not to offer the Work-Units for sale or rent to FCRHA or a non-profit as specified in Proffer 37 below, and right of the Applicant to qualify the initial purchasers of Work-Force Sale Units, as specified in Proffer 38 below.

37. Availability of Work-Force Units. For Work-Force Units, the Applicant shall not be required to provide a right of first refusal to FCRHA for sixty (60) days and or an identified non-profit for thirty (30) days after the initial notice of sale or rental of Work-Force Units, as required for ADUs by Sections 2-810(2), 2-810(3), 2-810(4), and 2-811(1) of the Zoning Ordinance. Specifically, the Applicant shall have the right to offer Work-Force Units directly to persons meeting the income requirements of these Proffered Conditions in accordance with the applicable administrative provisions of Section 2-810(5) of the Zoning Ordinance.

38. Qualification of Initial Purchasers. For the initial sale of Work-Force Sale Units, the Applicant shall have the right to sell to persons who meet the income restrictions of these Proffered Conditions. At least five (5) business days prior to the closing on the initial sale of any Work-Force Sale Unit, the Applicant shall qualify such purchaser by providing a statement to FCRHA, verified under oath which certifies the following:

- (A) The address and name of the development and the name of the owner;
- (B) For the Work-Force Sale Unit to be purchased;
  - (1) the unit address and bedroom count,
  - (2) the date of the closing of the unit,

- (3) the prospective purchaser's MHI as of the date of the closing,
- (4) the sale price of the unit and copy of how the sale price was calculated in accordance with these Proffered Conditions,
- (C) To the best of the Applicant's information and belief, the purchaser who will be occupying the Work-Force Sale Unit meets the income criteria established by these Proffered Conditions;
- (D) The Applicant has informed the purchaser of the first time homebuyer education programs or other similar programs that FCRHA conducts, utilizing sample brochures or materials provided by FCRHA; and
- (E) The Applicant shall provide FCRHA a copy of the materials used to verify the MHI of the prospective purchaser and the materials regarding first time homebuyer education programs conducted by FCRHA.

Subsequent prospective purchasers after the initial sale of a Work-Force Sale Unit shall be qualified by the County in accordance with applicable administrative provisions of Part 8 of Article 2 of the Zoning Ordinance or such alternate procedure, that the County may adopt that are in conformance with these proffered conditions.

39. Administrative Contribution. Prior to the issuance of any RUP for a Work-Force Sale Unit, the Applicant shall contribute \$100 per Work-Force Unit shown on the approve site plan to FCRHA. Such funds shall be utilized by FCRHA for administration of the Work-Force Sale Units.

40. Alternative Administration. Notwithstanding Proffer 36, the Applicant reserves the right to negotiate with the appropriate Fairfax County agency, to enter into a separate binding written agreement solely as to the terms and conditions of the administration of the Work-Force Units after the approval of this rezoning. The requisite number and pricing/rents of Work-Force Units and ADUs provided pursuant to these Proffered Conditions shall not be altered in any manner by such an agreement. Such an agreement shall only consider administrative issues on terms mutually acceptable to both the

Applicant and Fairfax County and may only occur after the approval of this rezoning and when the revisions have been deemed to be in substantial conformance with these Proffered Conditions. Fairfax County shall be in no manner obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the Work-Force Units shall be administered in accordance with such an agreement, and all or a portion of Proffer 36 above may become null and void.

41. Alternative County Process. In the event the Board should adopt a process, procedure or ordinance for administering Work-Force Units, or similar income-restricted housing, then the Applicant may, prior to the sale or lease of the first Work-Force Unit on the Property and at its sole option, choose to administer the Work-Force Units provided pursuant to these Proffered Conditions, provided the Applicant shall maintain no fewer than eight percent (8%) of the dwelling units provided on the Property as either ADUs or Work-Force Units.

42. Work-Force Sale Units - Initial Sales Price. The initial sales price for each Work-Force Sale Unit shall be determined in accordance with the following formulas and as approved by FCRHA:

1. For Work-Force Sale Units
    - 83% of MHI times the following adjustment factors

Two Bedroom =	90%
One Bedroom =	80%
Studio =	70%
2. Multiply the result by thirty-eight percent (38%) and divide by twelve (12) to determine the monthly shelter payment. Then subtract the following:
  - (A) Estimated monthly property tax. Such tax shall be based on the Fairfax County property tax rate in effect at the time of the sale, and to include any future or additional property taxes for such property, whether imposed by the County, Commonwealth or Federal Government;

- (B) Estimated monthly homeowners insurance. Such insurance shall be based on the estimated insurance required by a lending institution to secure a loan on a similar dwelling unit;
  - (C) Estimated monthly common association fees. Such fees shall be based on the actual average association monthly fees assessed against the unit for the prior calendar year. Common association fees shall not be included for formula for the initial sale of any Work-Force Unit;
  - (D) Estimated monthly utilities. Such utilities shall be based on the actual average monthly utilities used by the unit for the prior calendar year. Utility fees shall not be included for formula for the initial sale of any Work-Force Unit;
3. Convert the resulting estimated monthly payment, utilizing the interest-rate on a 30-year fixed-rate loan as published by Freddie Mac thirty (30) days prior to any closing and round the result to the nearest whole number, to establish maximum sales price for the unit. The actual sales price may be less than the calculated maximum at the discretion of the Applicant.

The Applicant or any subsequent seller shall provide a copy the sale price calculation to FCRHA prior to closing on the sale of any Work-Force Sale Unit. The initial MHI to determine such initial maximum sale price shall be based upon the date of the issuance of the first RUP for any Work-Force Sale Unit. At a minimum, the MHI and the maximum sale price, as calculated above, shall be adjusted once a year, starting on January 1 of the next calendar year, and annually thereafter. The Applicant reserves the right to make more frequent adjustments. A copy of such annual calculation or any permitted adjustments shall be provided to FCRHA. The MHI shall be the most recent published MHI as contained in the American Community Survey of the U.S. Census, or other applicable publication as determined by FCRHA in consultation with the Applicant.

43. Work-Force Rental Units - Rental Rates. The maximum monthly rental each Work-Force Unit may be offered at shall be determined as follows:

Work-Force Rental Units		
	83% of MHI times the following adjustment factors	
Two Bedroom	=	90%
One Bedroom	=	80%
Efficiency	=	70%

Divide the result by twelve (12), then multiply by 25% and round to the nearest whole number to establish the maximum monthly rent for the unit.

The initial MHI to determine such initial maximum monthly rent shall be determined from the date of the issuance of the first RUP for any Work-Force Unit. The MHI and the maximum monthly rent, as calculated above, shall be adjusted once a year, starting on January 1 of the next calendar year, and annually thereafter. The Applicant reserves the right to make more frequent adjustments. A copy of such annual calculation shall be provided to FCRHA. The MHI shall be the most recent published MHI as contained in the American Community Survey of the U.S. Census, or other applicable publication as determined by FCRHA in consultation with the Applicant.

44. Compliance with Federal, State, and Other Local Laws/Severability. If it is found by a court of competent jurisdiction, that any portion of these Proffers related to providing Work-Force Units violate any Federal, State or other local law, then the offending portion of the proffer shall be deemed null and void and no longer in effect. All remaining conditions of these Proffered Conditions shall remain in full force and effect.

45. Condominium Conversion. If a residential building was initially built as a rental project, then is subsequently converted to a condominium project, any existing Work-Force Units shall be maintained as Work-Force Units and shall be administered as Work-Force Sale

Units. The restrictions on the Work-Force Sale Units shall be disclosed in condominium declaration.

46. Disclosure. The requirements for administration and price of all for sale Work-Force Units shall be disclosed to all prospective purchasers and be recorded among the land records as a restrictive covenant. The form of such covenant shall be approved by the County Attorney.

## **VI. STORMWATER MANAGEMENT**

47. Stormwater Management Facilities. The Applicant will fulfill such requirements through the use of the existing regional facility located to the west of the Property in general accordance with the stormwater management narrative on the CDP/FDP, if approved by DPWES. If the Applicant is unable to fulfill such requirement through the use of the regional pond, the Applicant shall file a proffered condition amendment (PCA) to permit an alternative stormwater management facility.

48. Grasscrete Pavers. Concurrent with the construction of each respective phase of development, the Applicant shall install grasscrete pavers in the locations shown on the CDP/FDP to reduce the potential stormwater run-off from the Property. The Applicant shall maintain such areas.

## **VII. LANDSCAPING**

49. Landscaping and Landscaped Open Space. Site plans submitted for the respective phases of development shall include a landscape plan for that phase of development as generally shown on the CDP/FDP. The Applicant shall maintain such landscaping. Prior to issuance of the first RUP for Building 2.1, the Applicant shall construct the Amenity Open Space identified on the CDP/FDP. All new deciduous trees provided as a part of

the Government Center Parkway Extended streetscape and along Ridge Top Road and the two major internal private streets, as shown on such landscape plan, shall be a minimum of 3.0 to 3.5 inches in caliper at the time of planting. All new evergreen trees used in peripheral screening and landscaping areas and public spaces shall be a minimum of six (6') feet in height at the time of planting. Such landscape plan shall be provided in substantial conformance with the landscaping concepts shown on the CDP/FDP. Such landscaping shall include landscaping on off-site properties as shown on the CDP/FDP, provided the Applicant obtains permission at no cost from any applicable owner and/or governmental agency to install such landscaping, except for typical administrative fees and costs associated with the preparation, approval and recordation of deeds, plan and plats. The Applicant shall diligently pursue such permission, and, if unable to obtain such permission, shall demonstrate the failed attempts to DPWES. Further, the Applicant shall disclose the future expansion of the Amenity Open Space shown on the CDP/FDP to Parcel 37A and the potential for additional maintenance obligations associated with such expansion in the common association documents. Such future expansion of the Amenity Open Space shall also be noted on the record plat.

50. Location of Utilities. Along all existing and proposed public rights-of-way, utility lines shall be generally located so as to not interfere with the landscaping concepts shown on the CDP/FDP. The Applicant reserves the right to make minor modifications to such landscaping to reasonably accommodate utility lines provided such relocated landscaping shall retain a generally equivalent number of plantings and continues to reflect the concepts illustrated on the CDP/FDP. For all other areas of the Property, in the event that during the process of site plan review any landscaping shown on the CDP/FDP cannot be

installed in order to locate utility lines, as determined by DPWES, then an area of additional landscaping consisting of equivalent flora generally consistent with that displaced shall be substituted at an alternate location on the Property, subject to approval by Urban Forest Management.

51. Parking Deck Landscaping. The Applicant shall provide planting areas and landscaping on the top level of any open parking garages shown on the CDP/FDP in accordance with requirements of the Public Facilities Manual (PFM). Such landscaping shall be of a similar type and quality to the flora depicted on sheet 5 of the CDP/FDP, but at minimum shall include medium shade trees in adequately sized planters, as determined by Urban Forest Management.

52. Native Trees. Native trees that are conducive to air quality enhancement shall be used within the landscaping, streetscape and landscaped open space areas as determined appropriate by Urban Forest Management.

## **VIII. PEDESTRIAN IMPROVEMENTS**

53. Pedestrian Easements. Concurrent with site plan approval for each respective building the Applicant shall place all sidewalks and trails shown on the CDP/FDP on such a site plan in public access easements, in a form acceptable to the County Attorney. The Applicant shall maintain such sidewalks and/or trails located outside the public right-of-way. Additionally, the Applicant shall maintain such sidewalks and/or trails within the public right-of-way that are constructed with specialty paving as identified on the CDP/FDP or any sidewalks and/or trails within the public right-of-way that VDOT will not agree to maintain. The maintenance responsibilities for such sidewalks shall be disclosed in the common association documents.

54. Waples Mill Trail. Concurrent with construction of improvement shown on the site plan for Building 4, the Applicant shall construct a ten (10')-foot wide trail along the Waples Mill Road frontage as shown on the CDP/FDP. The final location of the trail shall be subject to review and approval by DPWES. To the extent the final trail location requires approval from any off-site owner and/or governmental agency, the Applicant shall diligently pursue such permission, from any applicable owner and/or governmental agency, at no cost to the Applicant except for typical administrative fees and costs associated with the preparation, approval and recordation of deeds, plan and plats. If the Applicant is unable to obtain the necessary permission, the Applicant shall escrow the cost for such unconstructed improvements.

55. Lee Highway Trail. Concurrent with construction of the improvement shown on the site plan for Building 3, the Applicant shall construct a ten (10')-foot wide trail within the proposed Lee Highway right-of-way dedication, as shown on the CDP/FDP and the Countywide Trail Plan. The final location and design of said trail shall be subject to VDOT and DPWES approval. To the extent the final trail location requires approval from any off-site owner and/or governmental agency, the Applicant shall diligently pursue such permission from any applicable owner and/or governmental agency, at no cost to the Applicant except for typical administrative fees and costs associated with the preparation, approval and recordation of deeds, plan and plats. If the Applicant is unable to obtain the necessary permission, the Applicant shall escrow the cost for such unconstructed improvements.

## **IX. RECREATIONAL FACILITIES**

56. On-Site Recreational Contributions. Pursuant to Section 6-409 of the Zoning Ordinance, the Applicant shall contribute \$955.00 per each residential unit, exclusive of ADUs,

approved on the Property to the Fairfax County Park Authority to provide recreational facilities to serve the Property. The Applicant shall receive credit against such contribution for the cost of recreational facilities, as approved by DPWES, which may include, but not be limited to the cost of improvements for swimming pools (indoor and outdoor), outdoor seating areas, pedestrian trails (except those shown on the Comprehensive Plan), plazas, indoor recreational facilities, such as weight training equipment, fitness, billiard rooms, card and game rooms, and indoor multi-purpose courts. The Applicant agrees that only those developed recreational facilities to which the residents of such building shown on the particular site plan under review have access to, will be eligible for credit against the contribution for that site plan. Prior to the approval of the site plan for any Residential Building, the Applicant shall contribute such per unit contributions for each dwelling unit approved on the final site plan for that respective building.

57. Off-Site Recreational Contributions. In addition, the Applicant shall contribute \$662.00 per dwelling unit to the Fairfax County Park Authority for facilities at Patriot Park. Concurrent with the approval of the site plan for any Residential Building, the Applicant shall contribute such per unit contribution for each dwelling unit approved on the final site plan for that respective building.

#### **X. NOISE ATTENUATION**

58. Noise Study. The Applicant shall submit a noise study for Building 2.2 and/or Building 2.1, prior to the building permit application for Building 2.2 and/or Building 2.1, using a methodology acceptable to DPZ for review and approval by DPZ based on final site grading and topography. A “noise mitigation” sheet will be provided within any applicable site plan submission. This sheet will identify 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.

59. Noise Attenuation Measures. Exterior wall construction techniques shall be provided to ensure that a maximum interior noise level of approximately DNL 45 dBA shall be achieved for any dwelling unit in Building 2.2 and/or Building 2.1 that fronts onto Government Center Parkway Extended and that a noise study shows will be exposed to noise levels in excess of DNL 60 dBA.

## **XI. CONSTRUCTION AND GRADING**

60. Projection from Building Facades. Bay windows, balconies, awnings, store fronts and other architectural details, as applicable, may be provided for any of the buildings so long as they do not extend more than eight (8') feet beyond the building footprints as depicted on the CDP/FDP and so long as the streetscape features and dimensions as shown on the CDP/FDP are maintained. The respective common association documents shall specify these restrictions on allowable projections.
61. Asbestos Containing Soils. If based on the soils analysis submitted as part of the site plan approval process, DPWS 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 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 during all blasting and drilling activities and covered transportation of removed materials presenting this risk, and appropriate disposal.

62. Blasting. If blasting is required on-site, the Applicant shall ensure that blasting is done pursuant to Fairfax County Fire Marshal requirements and all safety recommendations of the same, including without limitation, the use of blasting mats. In addition, the Applicant shall:

- (A) Retain a professional consultant to perform a pre-blast inspection of each house or residential building, to the extent that any of these structures are located on the properties listed in Paragraph I of this proffer;
- (B) Prior to any blasting being done, the Applicant shall provide written confirmation to DPWES that the pre-blast survey has been completed and provide a copy of the survey to Fairfax County upon request;
- (C) Require the blasting consultant to request access to any houses, wells, buildings, or swimming pools, by notification to owners in accordance with Paragraph I of this Proffer, to, if permitted by owner, determine the pre-blast conditions of these structures. The Applicant's consultant will be required to give a minimum of fourteen (14) days notice of the scheduling of the pre-blast survey. The Applicant shall provide the residents entitled to pre-blast inspections, the name, address and phone number of the blasting contractor's insurance carrier;

- (D) Require his consultant to place seismographic instruments prior to blasting to monitor shock waves. The Applicant shall provide seismographic monitoring records to County agencies upon their request;
- (E) Notify owners in accordance with Paragraph I of this Proffer, ten (10) days prior to blasting; no blasting shall occur until such notice has been given;
- (F) Upon receipt of a claim of actual damage resulting from said blasting, the Applicant shall cause his consultant to respond within five (5) days of meeting at the site of the alleged damage to confer with the property owner;
- (G) The Applicant will require blasting subcontractors to maintain necessary liability insurance to cover the costs of repairing any damages to structures, which are directly attributable to the blasting activity and shall take necessary action to resolve any valid claims in an expeditious matter; and
- (H) The consultant shall be required to provide an analysis of the potential for gas migration from the site to the Fire Marshal for review and approval prior to blasting. Appropriate gas migration mitigation and/or notification pursuant to County regulations shall be implemented.
- (I) For purposes of this Proffer, the following tax map parcels shall be notified by certified mail at the address indicated in the tax assessment records of Fairfax County:

Tax Map Parcels 56-2-((1))- 33G1, 33G2, 33H, 36, 37A, 39, 40, 54, 55, 57, 58, 61A; 56-2-((4))-1, 2, 4, 6; 56-2-((15))-((4))-102, 103, 201, 202, 203, 204, 301, 302, 303, 304; 56-2-((15))-((6))-102, 103, 201, 202, 203, 204, 301, 302, 303, 304; 56-2-((15))-((7))-102, 103, 201, 202, 203, 204, 301, 302, 303, 304; 56-2-((15))-((8))-102, 103, 201, 202, 203, 204, 301, 302, 303, 304; 56-2-((12))-A1, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 111, 112A; 56-2-((19))-A1, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 94, 95, 96, 97, 98, 99, 100, 101, 102; 56-2-((17))-A, E, N, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51; 56-2-((24))-((1))-1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17; 56-2-((24))-((2))-35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51

63. Archaeological Survey. Prior to any land disturbing activities on the Property, the Applicant shall conduct Phase I and/or Phase II, if determined appropriate by Cultural Resource Management and Protection Section of the Fairfax County Park Authority (CRMPS) archaeological investigation of the site to identify and evaluate archaeological resources that are known and predicted to be present on the property. Prior to initiation of such study, the Applicant's consultant shall meet with CRMPS to determine the methodology to be used in the study. Such methodology as approved by CRMPS, shall be utilized by the consultant. A minimum of one month prior to commencement of the field work portion of the study, CRMPS shall be notified, and CRMPS staff shall be permitted to make field visits to observe the work in progress. Upon completion of field

work, a field meeting shall be held with CRMPS on-site to review the findings and for CRMPS to make recommendation for future study if necessary.

If significant archaeological resources are discovered, as determined by CRMPS, CRMPS shall notify Applicant, in writing within thirty (30) days of the on-site meeting to undertake a Phase III data recovery. A research design for the Phase III prepared in consultation with CRMPS, including appropriate methodology, shall be utilized. Upon completion of the study, an archaeological technical report shall be prepared per the Virginia State and Federal guidelines. Any artifacts, photographs, field notes, or other documentation shall be contributed to CRMPS for curation, with the intent that such artifacts will be available for exhibit in the Fairfax Center area.

64. Historical Marker. The Applicant shall construct a historical marker commemorating the World War II German P.O.W. Camp that existed on the Property, in the Amenity Open Space, as shown on the CDP/FDP, memorializing the historical significance of the Property. The final form of the historical marker shall be subject to the approval of the CRMPS. The marker shall be constructed at the same time the Amenity Open Space is completed.

65. Energy Conservation. All dwelling units constructed on the Property shall meet the thermal standards of the CABO model energy program for energy efficient units or its equivalent, as determined by DPWES for either electric or gas energy units as applicable.

## **XII. MISCELLANEOUS**

66. School Contribution. Prior to the issuance of the building permit for either Residential Building, the Applicant shall contribute \$780.00 per dwelling unit for each dwelling unit

approved on the final site plan for that respective building to the Board for capital improvements to schools serving the Property.

67. Temporary Signage. 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 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 representative. The Applicant shall direct its agents and employees involved in marketing and/or sale of residential units on the Property to adhere to this proffer.
68. Common Association. Prior to issuance of the first RUP or Non-RUP for the Property, the Applicant shall establish a common association in accordance with Virginia law. Such common association may consist of one or more umbrella owners associations for the entire Property, as well as individual condominium owners' associations ("COAs") formed for specific buildings. At a minimum, each COA and the owners of each office and/or hotel building shall be members of the common association. The common association shall be responsible for the obligations specifically identified in these proffers, including all maintenance, TDM, and notification obligations.
69. Rooftop Equipment. Telecommunications and other related equipment may be placed on the proposed Buildings’ rooftops. Any such facilities must comply with the applicable requirements of the Zoning Ordinance. Other screening measures may be used such as including the facilities as part of the architecture of the buildings, utilizing compatible colors, or employing telecommunication screening material and flush mounted antennas.
70. Successors and Assigns. These proffers shall bind and inure to the benefit of the Applicant and its successors and assigns. Each reference to "Applicant" in these proffers

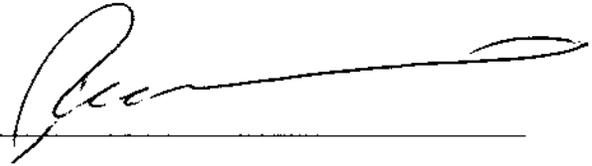
shall include and be binding upon Applicant's successor(s) in interest and/or developer(s) of any portion of the Property.

71. Counterparts. These proffers may be executed in one or more counterparts, each of which when so executed shall be deemed an original document and all when taken together shall constitute but one and the same instrument.

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MIDLAND ROAD LLC  
(Contract Purchaser of  
Tax Map No. 56-2-((1))-37)

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read 'Richard W. Hausler', written over a horizontal line.

Name: Richard W. Hausler

Title: Manager

RIDGETOP ROAD LLC  
(Title Owner of  
Tax Map No. 56-2-((1))-37)

By:  \_\_\_\_\_

Name: \_\_\_\_\_

Title: Nina V. Weissberg,  
Vice President