PROFFERS
HALSTEAD MIXED-USE DEVELOPMENT
RZ 2007-PR-001

October 12, 2007

Pursuant to Section 15.2-2303(A) of the Code of Virginia (1950, as amended) and Section 18-204 of the Zoning Ordinance of Fairfax County (1978, as amended), the property owners and applicants, for themselves and their successors and/or assigns (hereinafter collectively referred to as the "Applicants"), hereby proffer that the development of the parcels under consideration and shown on the Fairfax County tax maps as Tax Map 49-1 ((29)) All; 49-1 ((30)) All; 49-1 ((16)) 14, 15, 16; and 49-2 ((1)) 18, 19 (collectively, the "Property") shall be in accordance with the following conditions if, and only if, Rezoning application 2007-PR-001 is granted. The Property includes two distinct phases. One which is complete, includes Tax Map 49-1 ((29)) All and 49-1 ((30)) All (collectively, "Phase A Property") and a second future phase includes Tax Map 49-1 ((16)) 14, 15, 16 and 49-2 ((1)) 18, 19 (collectively, "Phase B Property"). In the event RZ 2007-PR-001 is approved, then any previous proffers for the Property are hereby deemed null and void and hereafter shall have no effect on the Property.

A. PHASE A PROPERTY

Note: The following proffers A-1 through A-41 affect the development of the Phase A Property and have been fulfilled and completed with the development of the Phase A Property in accordance with final Site Plan 1981-SP-001.

PHASE A CONCEPTUAL DEVELOPMENT PLAN/FINAL DEVELOPMENT PLAN

A-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, the development of the Phase A Property shall be in substantial conformance with the Phase A Conceptual Development Plan/Final Development Plan ("Phase A CDP/FDP") containing eleven (11) sheets prepared by Burgess & Niple, Inc. dated November 26, 2002, and revised through June 18, 2003, and subsequently included as Sheets 32 through 42 in the Halstead Mixed-Use Conceptual Development Plan/Final Development Plan prepared by Urban Engineering and Associates, Inc. dated October 2006, and revised through August 10, 2007, and as further modified as shown on Sheets 2, 4 and 6 of the Halstead Mixed-Use Development Conceptual Development Plan/Final Development Plan prepared by Urban Engineering and Associates, Inc. dated October 2006, and revised through September 24, 2007.

A-2. Minor Modifications. Minor modifications from what is shown on the Phase A CDP/FDP and these Proffers may be permitted which may become occasioned as a part of final site engineering, as determined by the Zoning Administrator. Building footprints may be decreased and the number of units in each building

may be reduced, so long as the minimum open space identified on the Phase A CDP/FDP tabulation and the minimum dimensions to the peripheral lot lines are not diminished other than as permitted pursuant to Proffer A-1. It shall further be understood that the Phase A Property may be developed in phases subject to market conditions.

A-3. Maximum Density and Permitted Uses. A maximum of 445 multi-family dwelling units may be provided in multiple buildings, which will also include a minimum of 4,450 square feet and a maximum of 4,910 square feet dedicated to retail uses to be located on the first floor of the building west of Merrilee Drive and a minimum of 5,000 square feet and a maximum of 8,000 square feet to be used as a clubhouse and leasing center on the first floor of the building east of Merrilee Drive. The first floor frontage of the western building along Merrilee Drive shall be constructed in a manner that is conducive to altering the use from multi-family to a commercial use in the future. Such a change will require a Proffered Condition Amendment. The primary use shall be multi-family residential, however, the following secondary uses located on the first floor of the buildings may also be included within the designated areas of structures shown on the Phase A CDP/FDP:

A. Accessory uses and accessory services uses.

B. Business service and supply service establishments.

C. Eating establishments.

D. Fast food restaurants (not drive through).

E. Financial institutions.

F. Health Clubs.

G. Community Uses.

H. Personal service establishments.

I. Private clubs and public benefit associations.

J. Public uses.

K. Quick service food stores.

L. Bank teller machines.

M. Office.

N. Retail.

GENERAL

A-4. Escalation. All monetary contributions required by these Phase A Proffers shall be adjusted upward or downward, based on changes to the Construction Cost Index published in the Engineering News Record occurring subsequent to the date of rezoning approval and up to the date of payment.

A-5. 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 by any builder or at the Applicant's or any builder's direction to assist in the initial and future marketing and/or rental of dwelling units on the Phase A Property. The Applicant shall direct its agents and employees involved in marketing the Property to adhere to this proffer.

A-6. School Contributions. Prior to the issuance of the first building permit for the eastern building and similarly, for the first building permit for the western building, the Applicant shall provide documentation to DPWES that the Applicant has donated the sum of $172,500 as a school contribution to the Fairfax County Board of Supervisors for each building (for a total of $345,000 for both buildings). In addition, prior to the issuance of the first building permit, the Applicant shall provide documentation to DPWES that the Applicant has donated the following: the donation to Shrevewood Elementary School shall include ten (10) laptop computers and twenty-three (23) computer-to-monitor connection cables, subject to the specifications of the school and approved by the principal. The donation to Joyce Kilmer Middle School shall be ten (10) laptop computers, subject to the specifications of the school and approved by the principal. At the discretion of each school Principal, the laptop computers and monitor connection cables may be substituted for other equipment of a similar value. At the time the funds are received, other equivalent or more advanced technologies may be substituted, at the discretion of each principal, for the actual purchases that will be made and installed through the Fairfax County Public School System.

A-7. Density Credit. Advanced density credit is reserved consistent with Section 2-308 of the Fairfax County Zoning Ordinance for all eligible dedications described herein or as may be required by Fairfax County or VDOT pursuant to the Public Facilities Manual (PFM), at the time of subdivision and/or site plan approval for the Property.

A-8. Affordable Dwelling Units ("ADUs"). The Applicant shall provide ADUs equal to that number which is 2.7% of the total number of multi-family units to be constructed. In addition, at the time of site plan approval, the Applicant shall donate the total sum of $100,000.00 to the West County Homeless Shelter for playground equipment at the time of site plan approval. At the discretion of the Executive Director of the Shelter, the Applicant may purchase and install the

playground equipment in lieu of the cash contribution or provide the contribution for other uses for the shelter.

A-9. Architectural Compliance. The architectural-design of the buildings shall in substantial conformance with the elevations shown on Sheet 41 of the Phase A CDP/FDP. Modifications may be made to the final architectural designs if in substantial conformance with the elevations shown on the Phase A CDP/FDP. All sides of the building shall be architecturally consistent. The facade of the buildings fronting Merrilee Drive and Prosperity Avenue shall be 70% brick and glass. The building materials along Merrilee Drive and Prosperity Avenue will be a combination of materials to include masonry, hardi-board, or stucco, but will not include EIFS. The buildings will consist of four (4) stories, which will read as a five (5) story facade, with a building height of sixty (60) feet.

A-10. Parking Garage Design and Lighting Standards. The facade of the parking garage facing the adjacent property to the east shall be designed in substantial conformance with the elevation shown on Sheet 40 of the Phase A CDP/FDP, consisting of pre-cast concrete and brick inserts. The southern facades of both parking garages shall, in addition to the landscape screen, contain an element of pre-cast concrete with brick in the-top three parking levels consistent with the design depicted on Sheet 9 of the Phase A CDP/FDP. The southern facades of both parking structures shall be landscaped with Leyland cypress or a comparable tree species acceptable to the Urban Forester. The eastern and southern garage facades shall have a similar color scheme as the multi-family structures. Lighting internal to the parking garages shall be located between the beams to prevent glare. Lighting on the upper level of the parking garage shall be full cut off and be equipped with house side shields to prevent glare resulting from direct visibility of light sources onto adjacent residential property and the light fixtures shall be black. Where fixtures are mounted on the topmost deck of structured parking garages, an opaque house-side shield shall be affixed to eliminate glare onto the adjacent residential building located to the east.

A-11. Pedestrian Facilities. The streetscape design for Merrilee Drive and Prosperity Avenue, including the entry plazas at the intersection of Merrilee Drive and Prosperity Avenue, shall be in substantial conformance with the Phase A CDP/FDP. Prior to site plan approval, the Applicant shall demonstrate to the satisfaction of DPWES that the Applicant has acquired the WMATA strip of land along the southern side of Prosperity Avenue adjacent to the site or has gained permission to landscape the area.

A-12. Administrative Review. Concurrent with the submission of plans to DPWES, the Applicant shall submit copies of the plans to the Providence District Supervisor and Planning Commissioner for the purpose of administrative review and comment.

RECREATION

A-13. Recreation Contribution. Pursuant to Section 6-409 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall provide the recreational facilities to serve the Application Property. Per Section 6-409, recreational facilities such as swimming pools, exercise rooms, or health clubs which are located on rooftops, deck areas and/or areas within a building may be used to fulfill this requirement. At the time of site plan review, the Applicant shall demonstrate that the value of any proposed recreational amenities is equivalent to a minimum of $955.00 per unit as required by Article 6 of the Zoning Ordinance. In the event it is demonstrated that the proposed facilities do not have sufficient value, the Applicant shall have the option to (1) provide additional on-site recreational amenities within the approved structures, within the open space areas shown on the Plan, if it is determined that the location at such would be in substantial conformance with the Phase A CDP/FDP; and/or (2) contribute funds to the Fairfax County Park Authority for off-site recreational purposes in location(s) that reasonably expected to serve the future residents of the approved development.

A-14. Park Authority Contributions. In addition to Proffer A-13 above, the Applicant shall contribute $257,050 to the Fairfax County Park Authority prior to the issuance of the first RUP for park purposes and/or facilities in the Merrifield area. In addition, the Applicant shall contribute $27,950 to the Fairfax County Park Authority to be designated for the Nottaway Nights Concert Series, prior to the. issuance of the first Residential Use Permit (RUP).

A-15. Public Access to Internal Park. Public access to the northwestern courtyard (pocket park) located within the building on the west side of Merrilee Drive shall be provided during the hours between dawn and dusk. Once annually, such access may be denied for a day to prevent the creation of unintended property interests. Signage to encourage public use of the park shall be posted along Merrilee Drive. Renters shall be notified in writing of the public access easement for the northern courtyard prior to entering into a lease agreement.

A-16. Bicycle Racks. A minimum of four (4) bicycle racks shall be provided throughout the project.

A-17. Benches. A minimum of seventeen (17) park benches shall be disbursed throughout the site as generally shown on Sheet 37 of the Phase A CDP/FDP. Illustrations of benches have been provided with the Phase A CDP/FDP to demonstrate the character and quality of the benches to be used on the site. In addition, the plazas at Merrilee Drive and Prosperity Avenue shall be designed to provide opportunities for movable tables and chairs.

ENVIRONMENTAL

A-18. Stormwater Management. Stormwater management and Best Management Practices (BMP) facilities and measures shall be employed in accordance with the PFM, as determined by DPWES. Prior to site plan approval, the Applicant shall demonstrate to the satisfaction of DPWES that adequate outfall is provided. To the extent practicable, as determined by DPWES, the site design will incorporate low impact design features, which will include increasing the peak discharge time of concentration to the point of connection to the closed conduit system and reducing the allowable peak discharge by 25% more than the requirements of the PFM for the ten (10) year storm event. The Applicant proposes to utilize underground detention and BMP facilities as the primary means of detaining and treating the stormwater runoff. The location of the underground stormwater management facilities may be modified as depicted on the Phase A CDP/FDP but shall be subject to approval of DPWES. The use of such facilities is subject to the granting of a waiver of current County policies to permit these facilities in a residential project. In lieu of a standard sand filter device, it is the intent to utilize a cartridge filter system such as StormFilter® to meet BMP requirements, subject to the approval of DPWES and engineering design requirements. The primary storage and filter facilities will be located where the proximity to an adequate outfall allows the most approvable design, so as not to interfere with other aspects of the Phase A CDP/FDP, but smaller facilities, integrated into storm catch basin structures, may be utilized elsewhere on the site, subject to the approval of DPWES. If the proposed facilities, or viable alternatives that do not significantly affect the site layout, are not approved by DPWES, the Applicant recognizes that it may be necessary to request an amendment to the approved CDP and/or FDP to alter the site design. The Applicant, and its successors, will assume responsibility for the perpetual maintenance of all underground. stormwater management facilities and will execute an agreement with the County in a form satisfactory to the County to this effect at the time of site plan approval. Said agreement shall address the following issues:

A. Future replacement when warranted;

B. Liability and insurance in an amount acceptable to Fairfax County;

C. Restriction that the Applicant or successors or assigns shall not in the future petition DPWES for maintenance;

D. County inspection to ensure that the facilities are maintained by the Applicant in good working order.

A-19. Landscaping. The landscaping shall be provided in substantial conformance with the location, quality, and quantity of plantings depicted on the Phase A CDP/FDP. The Applicant shall submit a landscape plan as a part of each site plan submission. This plan shall be coordinated with, and approved by, the Urban Forestry Division, DPWES, and shall contain the landscaping shown on the Phase

A CDP/FDP, including parking lot landscaping for the top surface level of the parking garages. The Applicant shall maintain all landscaping. All new deciduous trees provided as a part of the streetscape shall be a minimum of 3.0 inches in caliper at the time of planting; new evergreen trees shall be a minimum of six (6) to eight (8) feet in height at the time of planting. The landscape strips along the streetscape for Merrilee Drive and Prosperity Avenue shall contain ground cover, understory plantings, ornamental shrubs and grass and flowering plants within the landscaped strip, subject to the review and approval of the Urban Forester. The secondary landscape strip shall include shade and flowering trees, ornamental shrubs, ground cover, flowering plants and grasses, subject to the review and approval of the Urban Forester.

A-20. Energy Conservation. All buildings shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by DPWES for either electric or gas energy homes as applicable.

A-21. Noise Attenuation. The Applicant shall provide the following noise attenuation measures:

In order to reduce the maximum interior noise to a level of approximately 45 dBA Ldn, the Applicant proffers that all Phase A residential units shall have the following acoustical attributes:

A. Exterior walls shall have a laboratory sound transmission class STC) rating of at least 39;

B. Doors and glazings shall have a laboratory STC rating of at least 28. If glazing constitutes more than 20% of any facade, they shall have the same laboratory STC rating as walls; and

C. Measures to seal and caulk between surfaces shall follow methods approved by the American. Society for Testing ands Materials to minimize sound transmission.

A-22. Lighting. All street lights (being that lighting that is intended to illuminate the streets) and exterior building lighting located on the Phase A Property will be installed conformance with County requirements using County-approved light fixtures. Examples of proposed light fixtures have been provided with the Phase A CDP/FDP to show the character and general quality of the lighting to be used on the site. Any replacement lighting shall meet requirements of Part 9 of Article 14 of the Zoning Ordinance.

A-23. Geotechnical Investigation. If required by DPWES, the Applicant shall submit a geotechnical investigation of the site and implement such measures determined by the investigation, subject to the satisfaction of DPWES.

TRANSPORTATION

A-24. Extension of Merrilee Drive. As shown on the Phase A CDP/FDP, the Applicant shall dedicate land in fee simple to the Board of Supervisors for the extension of Merrilee Drive at the time of final site plan approval. The Applicant reserves the right to enter into a license agreement, if permitted by VDOT and DOT, to use the dedicated Merrilee Drive as a staging area until the construction of Merrilee Drive is complete. The Applicant shall construct the extension of Merrilee Drive through the application property to connect to Prosperity Avenue, prior to the issuance of the first RUP or Non-RUP issued for the subject property. The design and configuration of this improvement shall be subject to review and approval by VDOT and DPWES. The cost of this improvement is valued at $1.6 million. The Applicant will seek and diligently pursue vacation of portion of existing Merrilee Drive not required for a through street. For informational purposes only, the Applicant states that they may seek a reservation of three (3) on street parking spaces along Merrilee Drive from VDOT. These spaces are intended to service the leasing center and shall be appropriately marked. The Applicant will maintain the crosswalks across Merrilee Drive as identified on the Phase A CDP/FDP, subject to the approval

A-25. Right-of-Way Vacation. Notwithstanding the submission for processing of any applications, plans or plats in furtherance of the development of Phase A Property, the Applicant acknowledges that no such application, plan or plat shall approved by Fairfax County until or unless the vacation of right-of-way proposed as part of the Phase A Property is approved by the Board of Supervisors and is final. In the event that such vacation is not approved by the Board of Supervisors, or in the event that Board's approval is overturned by a court of competent jurisdiction, any development of the Phase A property under the PRM District shall require a proffered condition amendment and the Applicant acknowledges that such amendment may result in a loss of density. The Applicant hereby waives any right to claim or assert a taking or any other cause of action that otherwise may have arisen out of a Board decision to deny in whole or in part the right-of-way vacation.

A-26. Improvements for Prosperity Avenue. As shown on the Phase A CDP/FDP, the Applicant shall dedicate land in fee simple to the Board of Supervisors for the right-of-way of Prosperity Avenue at the time of final site plan approval or upon written demand, whichever occurs first. Prior to issuance of a RUP or Non-RUP, roadway improvements shall be made on Prosperity Avenue as shown on Sheets 35 and 36 of the Phase A CDP/FDP. Prior to site plan approval, the Applicant shall demonstrate to the satisfaction of DPWES that the WMATA land has been acquired or the Applicant has the right to construct and/or dedicate the land in order to provide the Prosperity Avenue improvements. In the event the land is not acquired from WMATA, a proffered condition/final development plan amendment shall be submitted and the Applicant acknowledges that such amendment may result in a loss of density.

A-27. Left Turn Lane at Westerly Access along Prosperity Avenue. The Applicant shall either construct a westbound left turn lane ("Left Turn Lane") as shown on the Phase A CDP/FDP, or an "Interim" Left Turn Lane ("Interim Lane"), both subject to VDOT review and approval, prior to issuance of RUPs or Non-RUPs for the western building, or, if sufficient right-of-way does not exist, as determined by VDOT and DOT so that the Left Turn Lane or Interim Lane cannot be constructed by the Applicant, the Applicant shall provide an escrow for the future construction of the Left Turn Lane prior to the issuance of said RUPs or Non-RUPs, but said escrow shall be exclusive of the cost of any land acquisition that may be needed in order to construct the Left Turn Lane. If sufficient right-of-way is not obtained for either the Left Turn Lane or the Interim Lane, the construction at this location shall be as shown on the exhibit titled "Alternative Access Plan" on Sheet 35 of the Phase A CDP/FDP package. The Applicant shall have no obligation to acquire, by purchase and/or condemnation (if such is available), any property that may be needed for such Left Turn Lane or Interim Lane. The Applicant shall pursue diligently the dedication and/or granting of any necessary off site rights-of-way and/or temporary or permanent easements along the appropriate portions of Prosperity Avenue, to construct any improvements, transitional taper and/or turn lanes required as a part of the transportation improvements reflected on the Phase A CDP/FDP and/or as set out in these proffers. The Applicant shall write to the adjacent landowner of Lot 19B Tax Map 49-1((13)) and of Lots 18A, 27A, and 27B, Tax Map 49-1 ((1)) to request the dedications necessary from those sites for the Left Turn Lane or the Interim Lane and the granting of necessary construction easements, and shall to these landowners affirm the Applicant's sole obligation to construct the left turn lane and to urge cooperation. In the event that the rights-of-way are not obtained, the Applicant shall demonstrate to the satisfaction of DPWES that it diligently pursued obtaining the rights-of-way and easements and then provide the escrow for the construction as described above. By providing DPWES with copies of certified letters to the adjacent landowners, as set out above, the Applicant shall have satisfied the "diligently pursued" standard herein.

A-28. Crosswalk Across Prosperity Avenue. The Applicant shall escrow funds for the construction of a crosswalk across Prosperity Avenue at Merrilee Drive at the time of site plan approval in an amount to be determined by DPWES and the Department of Transportation.

A-29. Merrilee Drive and Prosperity Traffic Signal. The Applicant shall contribute pro-rata funds for a traffic signal at Merrilee Drive and Prosperity Avenue. The Applicant shall provide traffic signal easements at the southeast and southwest. corners of Merrilee Drive and Prosperity Avenue prior to site plan approval.

A-30. Transportation Management Strategies. The use of mass transit, ride-sharing. and other transportation strategies will be utilized to reduce single occupancy vehicular (SOV) traffic during peak hours by a minimum of 25%. Tenants shall be advised of this transportation strategy development condition. Transportation coordination duties shall be carried out by a designated property manager(s) or

transportation management coordinator(s). The transportation strategy management position may be a part of other duties assigned to the individual(s). The transportation management strategies will be implemented after 70% of the RUP's have been issued for both multi-family buildings. The following is a list of potential strategies that may be implemented:

A. The Applicant shall designate an individual to act as the transportation coordinator (property management staff person) for the Application Property whose responsibility will be to implement the transportation management strategies;

B. By participation in the Fairfax County Ride Share Program;

C. By dissemination of information regarding Metrorail, Metrobus, ridesharing and other relevant transit options in residential lease packages;

D. By making Metro maps, schedules and forms available to tenants in a common area of each building for Metrobus, ridesharing other relevant transit options;

E. By providing amenities for bicycle storage;

F. By a sidewalk system designed to encourage/facilitate pedestrian circulation.

A-31. At the time of site plan approval, the Applicant shall provide a one time contribution of $10,000 to be held in escrow until the Merrifield Shuttle Service is established.

An annual sum of $0.10 per square foot of occupied gross floor area will be contributed by the Applicant to a transportation demand management fund to be used by the transportation coordinator each year. Such funds will be available after 70% of the Residential Use Permits are issued for all buildings. The terms of this proffer shall expire fifteen (15) years after the last RUP is issued.

One year after the transportation management strategies are implemented, the Applicant shall conduct a survey of residents, visitors, and employees to determine the transportation characteristics of building tenants and employees. This survey will form the basis of the transportation management program for the development. The survey shall be submitted to the Fairfax County Department of Transportation for review.

Annually thereafter, and at the beginning of each calendar year, the Applicant shall conduct a multi-modal transportation split survey of residents and employees to prove that 25% of driving age residents and employees use non-SOV transportation. The yearly report shall be submitted to the Fairfax County Department of Transportation for review. If the annual multi-modal transportation split survey indicates that the reduction has not occurred, an

additional $0.05 per, square foot shall be contributed to the TMS Fund until such time as the reduction has occurred.

Assuming a fifteen year life of the program, and assuming traffic generation does not exceed the trip generation forecast, the value of the Applicant's contribution to the transportation management strategy is calculated at $743,956.

A-32. Traffic Calming. To the extent permitted by VDOT and DPWES, the Applicant shall install stamped walkways and stamped parking spaces on the portions of Merrilee Drive as shown on the Phase A CDP/FDP. The Applicant shall enter into a maintenance agreement for these walkways and parking spaces.

A-33. Bus Shelter. If requested by VDOT or DOT prior to site plan approval, the Applicant shall construct and maintain a bus shelter at the northwestern corner of the subject property. If the bus shelter is not requested, the Applicant shall escrow $17,000 for a bus shelter in the Merrifield area prior to site plan.

A-34. Eastern Access. The Prosperity Avenue entrance to the garage for the eastern building shall prohibit incoming traffic from Prosperity Avenue, until such time that the eastern entrance for the Dunn Loring Metro is removed.

A-35. Choke Points. The "choke points" depicted on Merrilee Drive at the pedestrian crosswalks shall be subject to VDOT, DOT and DPWES approval and shall be designed to be temporary; as determined by DPWES and DOT.

A-36. Curb. The southbound curb for Merrilee Drive near Prosperity Avenue shall be designed as a mountable curb, as determined by VDOT.

MISCELLANEOUS

A-37. Fire and Rescue Department. At the time of site plan approval, the Applicant will donate to the Dunn Loring Volunteer Fire and Rescue Department a thermal imaging camera valued at approximately $12,000. At the discretion of the Dunn Loring Volunteer Fire and Rescue Department, an item of similar value may be substituted for the thermal imaging camera.

A-38. Signage. Signage shall be provided in accordance with Article 12 of the Zoning Ordinance. All signage shall be consistent in color, style and sign placement, as determined by Zoning Administration. If lighted, signage shall be internally lit only.

A-39. Residential Entrances. A minimum of eighteen (18) direct residential entrances shall be provided onto the streets from the individual residential dwelling units, some of which will have stoops or stairs into the individual units.

A-40. Successors and Assigns. These proffers will bind and inure to the benefit of the Applicant and his successors and assigns. Each reference to "Applicant" in this proffer statement shall include within its meaning and shall be binding upon

Applicant's successor(s) in interest and/or developer(s) of the site or any portion of the site.

A-41. Counterparts. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

B. PHASE B PROPERTY

PHASE B CONCEPTUAL DEVELOPMENT PLAN/FINAL DEVELOPMENT PLAN

B-1. Conceptual/Final Development Plan. The Phase B Property shall be developed in substantial conformance with the Halstead Mixed-Use Development Conceptual Development Plan ("CDP") and Final Development Plan ("FDP") dated October 2006 and revised through September 24, 2007, prepared by Urban Engineering and Associates, Inc. (the "Phase B CDP/FDP"), consisting of Sheets 1 through 31.

B-2. Elements of CDP. Notwithstanding the fact that the Conceptual Development Plan and Final Development Plan are presented on the same plan, the elements that are components of the Conceptual Development Plan are limited to the perimeter points of access, the general location of the buildings, uses, building heights, plaza areas, and setbacks from the peripheral lot lines and only a future amendment to such elements shall require a subsequent CDPA or Proffered Condition Amendment.

B-3. Minor Modifications. Minor modifications to the Phase B CDP/FDP may be permitted when necessitated by sound engineering or that may become necessary as part of final site design or engineering, pursuant to Section 16-403(4) of the Zoning Ordinance. Building footprints may be altered and the number of residential units and square footage of Principal and Secondary Uses (as defined herein) within each building (and corresponding adjustments in required parking and ADUs (as defined herein) may be adjusted, so long as (a) the minimum number of residential units and minimum square footage of Secondary Uses are provided; (b) the minimum open space tabulation provided on Sheet 4 of the Phase B CDP/FDP is not reduced; (c) the building heights for each building are not increased beyond the heights identified in Proffer B-10; and (d) the development otherwise is in substantial conformance with these Proffers and the Phase B CDP/FDP.

B-4. Alterations. The Applicants reserve the right to alter the layout shown for the parking garages, loading areas, and trash facilities provided within and under the building footprints, provided the external access points to the garages remain in general conformance with that shown on the Phase B CDP/FDP. The location of fire doors and mechanical equipment are subject to change and will be determined at final site plan.

GENERAL

B-5. Declarations/Owners Associations. The Applicants shall cause the recordation of one or more declarations creating an umbrella owners' association and /or

condominium owners' associations or other governance documents which will legally bind the Phase B Property (collectively referred to as the "UOA/COA"). Such UOA/COA shall be formed/recorded prior to the issuance of the first Residential Use Permit ("RUP") or Non-Residential Use Permit ("Non-RUP") for the Phase B Property. The respective UOA/COA documents (including budgets provided in any offering or sale materials) shall specify the various proffer and maintenance obligations set forth in these Proffers. Purchasers shall be advised in writing of these obligations, and other restrictions, prior to entering into a lease/contract of sale for units.

B-6. Proposed Development

A. Two (2) development options are provided for the Phase B Property. Option 1 includes a) four (4) residential buildings containing a minimum of 840 units and a maximum of 1,150 units; and b) community-serving secondary/retail uses containing a maximum of 101,723 square feet. Option 2 includes a) four (4) residential buildings containing a minimum of 840 units and a maximum of 1,000 units; b) community serving secondary/retail uses containing a maximum of 91,000 square feet; and c) a hotel of approximately 100,000 square feet. The development of the Property is summarized as follows:

	Option 1	Option 2
Multifamily Residential Units	Minimum 840 units up to 1150 units maximum	Minimum 840 units up to 1,000 maximum
Secondary Uses/Retail (other than ADUs) & Public Library	Minimum 50,000 sq. ft. Maximum 101,723 sq. ft.	Minimum 50,000 sq. ft. Maximum 91,000 sq. ft.
Hotel		Approximately 100,000 sq. ft.
TOTAL	Up to 1,078,804 sq. ft.	Up to 1,063,626 sq. ft.

B. Cellar Space. The Applicants reserve the right to utilize up to 25,000 square feet of cellar space constructed for resident amenities (including, but not limited to, fitness centers and sport courts), public library, theatres and health club uses; provided, however, that the Applicants shall be required to provide parking for the Cellar Space in accordance with the requirements of Article 11 of the Zoning Ordinance, as qualified by these Proffers. The Cellar Space in the Residential Buildings shall not contain habitable residential units.

B-7. Mix of Uses. The Phase B Property may include the following uses:

A. Principal Uses:

- Multifamily dwellings; and
- Public Uses such as a public library and related facilities.

B. Secondary Uses:

- Accessory uses and home occupations, including business centers inside residential buildings;
- Affordable dwelling units;
- Business service and supply establishments;
- Eating Establishments;
- Financial Institutions (without drive-through);
- Bank teller machines;
- Fast food restaurants (without drive-through);
- Garment cleaning establishments (drop-off and pick-up only; no onsite processing);
- Quick-service food stores;
- Offices (not to exceed 25,000 square feet);
- Vehicle rental establishments, provided all rental vehicles are parked/stored at an offsite location other than the Property;
- Retail sales establishments;
- Repair service establishments (not including vehicle light or industrial repair);
- Bus or shuttle services owned by private or quasi-public entities and primarily serving residents or employers/employees and the surrounding community, such as a private shuttle service to/from the future Merrifield Town Center;
- Telecommunications facilities;
- Health clubs;
- Community clubs, centers, meeting halls;
- Child care centers and nursery with approval of a special exception or FDPA;
- Personal service establishments;
- Private schools of special education without approval of a special exception; and
- Theatres.

B-8. Residential Units. A minimum of 840 residential units shall be constructed on the Phase B Property, with a maximum total number of residential units not to exceed 1,150 units. Such total shall include all required Affordable Dwelling Units ("ADUs") and all Workforce Dwelling Units ("WDUs") as defined in these Proffers.

B-9. Secondary Uses. Secondary uses (other than ADUs and home occupations as defined herein) shall be designed and constructed on the ground-floor levels of Buildings 1, 2, 3 and 4. However, health club and theatre uses may also be provided within cellar space.

A. Exclusions from Secondary Use Square Footage. Notwithstanding their listing as a Secondary Use under Proffer B-6 above, the square footage allocable to the following uses shall be in addition to, not subtracted from, the square footage of Secondary Uses permitted under these Proffers and shown on the Phase B CDP/FDP:

(i) Cellar space (as defined in the Fairfax County Zoning Ordinance);
(ii) ADUs/Workforce Units;
(iii) Home Occupations; and
(iv) Telecommunications Facilities.

B. Hotel. Should a hotel use be included in the development, the hotel shall include a full service restaurant and meeting space.

B-10. Building Heights. Building heights for each Phase B building are set forth below. Building height shall be measured in accordance with the provisions of the Fairfax County Zoning Ordinance and shall be exclusive of those structures that are excluded from the maximum height regulations as set forth in Section 2-506 of the Zoning Ordinance, including for example, penthouses and other rooftop structures. Such penthouses and other rooftop structures permitted under Section 2-506 of the Zoning Ordinance may be constructed to a height twenty (20) feet from the roof level of the top residential floor of the building below the top of the penthouse/rooftop structure roof. All building penthouses/rooftop structures shall be integrated into the architecture of the residential building below, as generally illustrated on Sheets 19-22 of the Phase B CDP/FDP.

A. Building 1. The maximum height of Building 1 shall be no less than 80 feet and no greater than 115 feet. The northern portion of the building wing adjacent to Merrilee Drive shall be a minimum of one floor lower than the southern portion of this wing. In addition, the maximum height of the retail wing in the southwestern corner of Building 1 shall be 20 feet.

B. Building 2. The maximum height of Building 2 shall be no less than 70 feet and no greater than 95 feet.

C. Building 3. The maximum height of Building 3 shall be 165 feet. The building shall be designed to step down from east to west as shown on the CDP/FDP, with a maximum height of the lower western section of 115 feet.

D. Building 4. The maximum height of Building 4 shall be no less than 70 feet and no greater than 95 feet.

B-11. Parking

A. Zoning Ordinance Requirements. Parking shall be provided in accordance with the parking requirements of Article 11 of the Fairfax County Zoning Ordinance, as determined by the Department of Public Works and

Environmental Services ("DPWES"), for the uses within the Phase B Property. The Applicants reserve the right, however, to provide parking spaces in addition to the total number of parking spaces shown on Sheet 4 of the Phase B CDP/FDP if (i) such additional spaces result from the final design of the parking structures for the principal and Secondary Uses so as to avoid partial garage floors; or (ii) to the extent necessary to accommodate Principal and Secondary Uses established on the Phase B Property that result in a higher parking requirement than is shown on the Phase B CDP/FDP (e.g., eating establishments); and (iii) said spaces are located within the garage. If parking for the residential uses on the Phase B Property is to be assigned to specific dwelling units, not less than one space shall be assigned to each unit, including ADUs and WDUs.

B. Parking Spaces along Private Street. The Applicants shall provide surface parking spaces to be located along the north and south side of Private Street as generally as shown on the Phase B CDP/FDP. The spaces may be part of or in addition to the total number of required parking spaces to be provided. The Applicants shall set aside four (4) parking spaces along Private Street to provide waiting, short term parking and/or temporary loading for the residential and Secondary Uses. The Applicants reserve the right to restrict the use of other spaces along Private Street, through appropriate signage or such other means as the Applicants determine, that otherwise are not required to satisfy the minimum parking requirements for use as a "Future Tenant Parking" or shuttle bus loading and/or zip car parking.

C. Future Parking Reductions. Given (i) the proximity to the Dunn Loring/Merrifield Metro Station, (ii) the character of the development as a transit-adjacent development, and (iii) the TDM Plan detailed in these Proffers, the Applicants shall in good faith evaluate, and may pursue a shared parking agreement and/or parking reduction for the development, as may be permitted by the Fairfax County Zoning Ordinance and approved by the Board of Supervisors.

D. Bicycle Racks. The Applicants shall install bicycle racks throughout the Phase B Property in the locations generally shown on Sheet 9 of the Phase B CDP/FDP and reviewed and approved by Fairfax County at the time of final site plan. The bike racks shall be inverted U-style racks (or other design approved by Fairfax County Department of Transportation) and shall collectively accommodate parking for at least one hundred (100) bicycles. At least fifty percent (50%) of the bike racks shall be located under building cover or placed under some form of outdoor protective cover so that bicycles are protected from the elements while parked at the bike racks.

E. Construction Parking. The Applicants shall develop, in consultation with its general contractor, a parking management policy for construction

workers hired to complete the development (the "Construction Parking Plan"). As part of the Construction Parking Plan, the Applicants shall erect signage on the Phase B Property in both English and Spanish that prohibits parking by construction workers in abutting residential developments.

TRANSPORTATION IMPROVEMENTS

B-12. Road Improvements

A. Dedication. As part of the first site plan approval for the Phase B Property, or upon demand by VDOT or Fairfax County, the Applicants shall dedicate in fee simple to the Board of Supervisors right-of-way along Phase B Property's Gallows Road frontage as shown on the Phase B CDP/FDP.

B. Gallows Road. Prior to the issuance of any RUP or Non-RUP for the Property, the Applicants shall substantially complete the following improvements as shown on the Phase B CDP/FDP and as may be approved by VDOT. For purposes of this Proffer, substantially complete is defined as complete and available for use by the public but not necessarily accepted by VDOT for state maintenance.

(i) A third southbound through lane along the Phase B Property's frontage on Gallows Road;

(ii) A five foot (5') on-road bike lane along the Phase B Property's frontage on Gallows Road;

(iii) A dedicated continuous right-turn lane along southbound Gallows Road between the northernmost Phase B Property line extending to the Southern Service Aisle;

(iv) Extension of the third southbound through lane and five (5) foot on-road bike lane from Phase B Property's northern property line to Prosperity Avenue, and construction of a right turn lane from Prosperity Avenue to the Private Street serving the Wilton House Condominiums and Marriott Hotel utilizing funds proffered and escrowed with the development of Wilton House/Marriott (RZ 99-PR-034), provided adequate right-of-way has been dedicated and all easements necessary for the construction are provided at no cost to the Applicants. In the event there is insufficient escrowed funds to cover the costs of said improvements, the Applicants shall construct the through lane and on-road bike lane and shall construct a right turn taper to the extent feasible without requiring relocation of utility poles, but shall not be required to construct the full right turn lane. To accommodate the on-road bike lane, the

southbound through lanes shall be restriped to be eleven (11) feet in width;

(v) Extension of the existing left turn lane from northbound Gallows Road onto Prosperity Avenue to provide a minimum 392 feet of storage and a 50 foot taper, or more as may be approved by VDOT.

(vi) Subject to VDOT approval of a warrant study to be provided by the Applicants, design, equip and install a traffic signal at the intersection of Gallows Road and the Southern Service Aisle. If a signal is installed, the Applicants shall provide services/improvements as follows:

Responding to Fairfax County's interest in completing the widening of Gallows Road to six (6) lanes, the Applicants, working with FCDOT, shall provide a functional drawing/preliminary engineering plan for the future widening, by others, of northbound Gallows Road from Prosperity Drive on the north to the end of VDOT Project #0029-029-0119 on the south. The design will accommodate three (3) northbound lanes and a 5 foot on-road bicycle lane (the "Widening"). The purpose of this drawing is to determine the consequences of the Widening on individual properties, and to determine the best alignment of Prescott Drive (a private parking drive aisle) on the east of Gallows Road. As such, the Applicants shall also prepare a plan for Tax Map 49-2 ((1)) 39 ("Parcel 39") showing proposed revisions to parking areas, drive aisles, and open space areas that would be needed to accommodate the Widening, and also a separate plan showing required right-of-way, easements and revisions needed to accommodate the realignment of Prescott Drive with the Southern Service Alley in order to achieve a simultaneous traffic signal and convenient and safe pedestrian crossing at this intersection with Gallows Road (the "Prescott Drive Realignment").

The Prescott Drive Realignment plan shall be submitted to FCDOT, VDOT and the owners of Parcel 39 for their review prior to the first site plan approval on the Phase B Property. Should the Prescott Drive Realignment plan be satisfactory to all parties, the Applicants shall prepare the final engineering plans and shall request the owners of Parcel 39 to provide necessary right-of-way and easements for the Prescott Drive realignment at no cost. If the owner of Parcel 39 fails to provide the necessary right-of-way and easements at no cost to the Applicants, the Applicants shall have an appraisal of the value of the easements (not right-of-way) prepared and shall offer to pay the owners of Parcel 39 for the

easements at a cost not to exceed the appraised value. Should the Applicants: (1) be successful in obtaining the right-of-way either at no cost from the owner of Parcel 39 or through condemnation by Fairfax County; and (2) be successful in acquiring the easements as outlined above, the Applicants shall construct the improvements necessary to accomplish the agreed upon Prescott Drive Realignment. The Applicants shall not be responsible for providing the Widening of northbound Gallows Road. The intersection construction shall also include:

(a) Construction of an exclusive left-turn lane from northbound Gallows Road on to the Southern Service Aisle within the existing right-of-way and utilizing 11 foot lane widths;

(b) Construction of an exclusive left-turn lane from southbound Gallows Road into Prescott Drive, with 200 feet of storage and a 50 foot taper, or less as may be approved by VDOT;

(c) Provision of raised and/or painted medians as approved by VDOT;

(d) Provision of pedestrian crosswalk striping, a minimum four (4) foot wide pedestrian refuge area, and audible pedestrian countdown signals as may be permitted and approved by VDOT; and

(e) Closure of the existing Gallows Road entrance serving Tax Map 49-2 ((1)) 20A and relocation of Parcel 20A's access to the Southern Service Alley, as acceptable to VDOT and the owners of Parcel 20A.

In the event the Applicants are not able to obtain the right-of-way and easements necessary to construct the Prescott Drive Realignment, the Applicants shall submit documentation of its efforts to FCDOT and DPWES. The Applicants may consider additional realignment options and propose such alternatives for VDOT/FCDOT review and approval. Should Fairfax County decide to acquire the right-of-way and easements for the Prescott Drive Realignment by means of its condemnation powers, the Applicants shall forward to the appropriate County agency: (1) plat, plans and profiles showing the necessary right-of-way and easements to be acquired; (2) an appraisal, prepared by an independent appraiser approved by the County, of the value of the right-of-way and easements to be acquired and of all damages, if any, to the residue of Parcel 39; and (3) a sixty (60) year title search certificate of Parcel 39. Prior to and during the

contemplated condemnation proceedings described above, the Applicants, their successors and assigns, shall be permitted to submit, process and receive approval of site plan(s)/subdivision plat(s) and development permits for other portions of the Phase B Property as described herein.

In the event the County elects not to use its condemnation powers to acquire the necessary right-of-way and easements from Parcel 39, the Applicants shall be relieved of its obligation to construct the Prescott Drive Realignment.

If Prescott Drive is not realigned and an alternative alignment scenario is not offered by the Applicants and approved by VDOT, the Applicants shall utilize a split phase signal at the Southern Service Aisle/Gallows Road intersection. Subject to VDOT approval, with this option, the Applicants shall provide improvements identified as "Gallows Road Split Signal Configuration" on Sheet 28 of the Phase B CDP/FDP including:

(a) An exclusive left-turn lane from northbound Gallows Road on to the Southern Service Aisle within existing right-of-way and utilizing 11 foot lane widths;

(b) An exclusive left-turn lane from southbound Gallows Road into Prescott Drive, with 200 feet of storage and a 50 foot taper, or less as may be approved by VDOT;

(c) Raised and/or painted medians as shown on the Phase B CDP/FDP and as may be approved by VDOT;

(d) Pedestrian crosswalk striping, a minimum four (4) foot wide pedestrian refuge area, and audible pedestrian countdown signals as may be permitted and approved by VDOT;

(e) Closure of the existing Gallows Road entrance serving Tax Map 49-2 ((1)) 20A and relocation of Parcel 20A access to the Southern Service Alley; and

(f) Escrow with DPWES funds sufficient to cover the cost of relocating the signal pole on the east side of Gallows Road to its ultimate location with a non-split phase signal.

In the event VDOT does not approve installation of a traffic signal at the intersection of Gallows Road and the Southern Service Aisle, the Applicants shall construct intersection improvements,

raised medians, and striping shown as the "Gallows Road No Signal Configuration" on Sheet 28 of the Phase B CDP/FDP, and as may be approved by VDOT. At the time a site plan approval for these intersection improvements, the Applicants shall escrow funds with DPWES to cover one half the cost of a future signal as well as the cost of reconstructing the medians and turn lanes associated with the unsignalized design to accommodate a signal, should one be approved in the future.

Said intersection improvements, whether associated with Prescott Drive Realignment, the split phased signal or the unsignalized intersection shall be substantially complete and contributions paid prior to issuance of the first RUP for Buildings 3 or 4. Upon demonstration by the Applicants that despite diligent efforts taken by the Applicants to implement this proffer, the construction of intersection improvements has been delayed, the Zoning Administrator may agree to a later date for completion of these improvements.

(vii) The Applicants shall coordinate the construction of the proffered Gallows Road improvements with VDOT's planned improvements to Gallows Road (VDOT Project # 0029-029-119) in order to avoid duplication of work and conflicts in construction. This may result in a need to adjust the timing of these proffered improvements as may be permitted through Proffer B-16.

C. Merrilee Drive.

(i) Prior to the issuance of any RUP or Non-RUP for Building 1, the Applicants shall construct a one-half section of street along Building 1's Merrilee Drive frontage with the face of curb set a minimum of 14 feet from the existing centerline of Merrilee Drive as shown on Sheet 6 of the Phase B CDP/FDP. Said section to include parallel parking as shown on the Phase B CDP/FDP.

(ii) Prior to the issuance of any RUP or Non-RUP for Building 2, the Applicants shall construct a one-half section of street along Building 2's Merrilee Drive frontage with the face of curb set a minimum of 14 feet from the existing centerline of Merrilee Drive as shown on Sheet 6 of the Phase B CDP/FDP. Said section to include parallel parking as shown on the Phase B CDP/FDP.

(iii) The Applicants shall complete and submit to VDOT a warrant study at the intersection of Merrilee Drive and the Southern Service Aisle prior to the issuance of the 825th RUP for the Phase B Property. If approved by VDOT, the Applicants shall design, equip and install a traffic signal at the subject intersection along

with installation of a pedestrian crosswalk and audible pedestrian countdown signals across Southern Service Alley as may be permitted and approved by VDOT. In the event, a signal is not warranted, the Applicants shall provide an easement to accommodate a signal pole for a future signal.

D. Private Street. The Applicants shall construct and place into operation the proposed Private Street through the Phase B Property connecting Merrilee Drive to Gallows Road in the general location shown on the Phase B CDP/FDP. Private Street shall be designed and maintained as a private street and constructed in accordance with that shown on Sheet 6 of the Phase B CDP/FDP. Construction of Private Street may occur in phases commensurate with the phasing of development of the Phase B Property. Public access easements shall be granted as part of site plan approval for the vehicle travelway of the private street and for the sidewalks on both sides of the private street. Easements for County inspection and emergency vehicles shall be granted. The Applicants reserve the right to provide a different name for the private street and to temporarily close Private Street to accommodate construction activity on the Phase B Property. The Applicants reserve the right to temporarily close a portion of Private Street on a temporary basis up to 40 times a year to accommodate special events such as, but not limited to, art fairs, farmers markets, outdoor concerts and festivals.

E. Southern Service Aisle. The Applicants shall construct a service aisle along the Phase B Property's southern boundary (referred to as the "Southern Service Aisle") as shown on the Phase B CDP/FDP. The Southern Service Aisle shall be constructed from Gallows Road to Merrilee Drive with the first site plan approved for the Phase B Property, and shall be open for use prior to the issuance of the first RUP for either Buildings 2, 3 or 4. Public access easements shall be granted as part of site plan approval for the vehicle travelway and adjacent sidewalk. The Applicants reserve the right to provide a different name for the southern service aisle and reserve the right to temporarily close the Southern Service Aisle to accommodate construction activity on the Phase B Property.

It is intended that the Southern Service Aisle provide access to loading, trash and parking areas for Buildings 2 and 4 as well as access for emergency vehicles, and provide a similar function for future buildings to be constructed on adjacent parcels identified as Tax Map 49-1 ((16)) 13 and 49-2 ((1)) 20A ("Parcels 13 and 20A"). As such, the Applicants agree to provide access to the Southern Service Aisle for Parcels 13 and 20A as they redevelop in a manner consistent with the Fairfax County Comprehensive Plan. A public access easement and a construction easement for the benefit of the owners of Parcel 13 and 20A shall be recorded along the southern boundary of the Phase B Property at the time

of site plan approval for the Southern Service Alley. In anticipation that Parcel 20A will require access to the Southern Service Aisle prior to the redevelopment of this parcel consistent with the Comprehensive Plan, the Applicants shall provide access to Parcel 20A from the Southern Service Alley with the initial construction of the Southern Service Alley.

Future connections to the Southern Service Aisle and the potential loss of some or all of the landscaped area shall be deemed in compliance with these Proffers without the requirement to secure a Proffered Condition Amendment ("PCA") or Final Development Plan Amendment ("FDPA").

F. Adjust Traffic Signal Timing. Prior to the issuance of the 500th RUP, if required by VDOT, the Applicants shall submit to VDOT an analysis to determine whether adjustments to the signal timings on Gallows Road and Merrilee Drive, between Prosperity Avenue and Lee Highway would improve or enhance circulation. The signal timing study shall include updated traffic counts based on the occupancy of the Phase B Property as of the date of the study. In the event VDOT determines that adjustments to the signal timing are warranted, then the Applicants shall make such adjustments prior to final bond release. In the event no timing adjustments are deemed necessary, then the Applicants obligation towards this proffer is null and void.

B-13. Future Interparcel Connection. Prior to site plan approval for the Southern Service Alley, the Applicants shall record a public interparcel access easement to permit future connection of the north-south drive aisle to adjacent properties identified as Tax Map 49-1 ((16)) 13 and 49-2 ((1)) 20A as shown on Sheet 6 of the Phase B CDP/FDP. Said connection is to be provided by others. The easement shall be in a form approved by the County Attorney.

B-14. Intersection of Merrilee Drive and Lee Highway.

A. Prior to the issuance of the 500th RUP for the Phase B Property, the Applicants shall construct a 100 to 120 foot length right-turn lane on southbound Merrilee Drive at its intersection with Lee Highway within the existing right-of-way, reconstruct the existing sidewalk as necessary, and re-stripe the lane configuration as determined by VDOT. The Applicants shall also escrow with DPWES funds sufficient to cover the cost of the future extension of the right turn lane, by others, to meet VDOT standards.

B. The Applicants shall construct two additional westbound lanes on Lee Highway within existing VDOT right-of-way, from Merrilee Drive to Hilltop Road, as may be approved by VDOT, for the general purpose of providing additional pavement to accommodate the ultimate design for dual left turn lanes from eastbound Lee Highway onto northbound Merrilee Drive. The Applicants shall also provide dual 15 foot wide receiving lanes on northbound Merrilee Drive within existing right-of-way

to meet VDOT standards. The Applicants shall restripe the lanes on Lee Highway for a single left turn lane or dual left turn lanes as may be approved by VDOT. In addition, the Applicants shall adjust the signal at Lee Highway and Hilltop Road, as required by VDOT to accommodate these improvements. The Applicants shall, in the existing right-of-way, reconstruct the existing eight (8) foot wide asphalt trail as needed and construct an extension of this trail to Hilltop Road. Such construction shall be provided prior to the issuance of the 500th RUP for the Phase B Property.

C. Should VDOT not approve the plans for the improvements identified in B-14.A or B-14.B, or if at the time of first site plan approval for the Phase B Property, VDOT determines that any or all of the B-14.A and/or B-14.B improvements should be delayed, the Applicants shall work with the Director of FCDOT to develop an alternate plan of a similar or lesser scope than that described in B-14.A and B-14.B, and/or escrow with DPWES sufficient funds to cover the cost of future construction of a portion of, or all of, the improvements by others.

D. The Applicants shall also contribute a pro-rata share of the costs associated with the modification of the existing traffic signal at the subject intersection at the time of submission for the first site plan associated with the Phase B Property. Said pro-rata to be determined based on the Applicants share of traffic generated by the Phase B Property as estimated in the Halstead III Traffic Impact Study prepared by Gorove/Slade Associates, Inc. and dated May 2007.

B-15. Bus Shelter(s). If requested by VDOT and FCDOT prior to site plan approval, the Applicants shall install and maintain a bus shelter to be located on the west side of Gallows Road, in a location to be determined by VDOT, FCDOT and the Department of Planning and Zoning ("DPZ"); or alternatively shall replace the existing bus shelter located just south of the Phase B Property, as determined appropriate by FCDOT and DPZ. No bus turn outs or special lanes shall be provided by the Applicants. If the shelter is located off the Phase B Property, said shelter shall be installed within the right-of-way or in an easement area provided by others at no cost to the Applicants. If a location for the bus shelter has not been determined prior to site plan approval, the Applicants shall escrow $25,000 for a bus shelter in the area.

With site plan approval for Buildings 1 or 2, the Applicants shall provide an easement for a bus shelter along its Merrilee Drive frontage.

B-16. Zoning Administrator Consideration. Notwithstanding the foregoing, upon demonstration by the Applicants that, despite diligent efforts or due to factors beyond the Applicants' control, the required transportation improvements proffered in B-12 through B-15 have been delayed (due to, but not limited to an inability to secure necessary permission for utility relocations and/or VDOT

approval for traffic signals, etc.) beyond the timeframes provided in each proffer, the Zoning Administrator may agree to a later date for completion of these transportation improvement(s).

TRANSPORTATION DEMAND MANAGEMENT

B-17. Transportation Demand Management. This Proffer and the Applicant's "Halstead III Mixed-Use Development Transportation Demand Management Strategic Plan" dated September 2007 and prepared by Urban Trans Consultants, Inc. (the "TDM Strategic Plan"), set forth the programmatic elements of a transportation demand management program that shall be implemented by the Applicants, and subsequently, as appropriate, the property owner, UOA/COA, to encourage the use of transit (Metrorail and bus), other high-occupant vehicle commuting modes, walking, biking and teleworking, all in order to reduce automobile trips generated by the residential uses constructed on the Phase B Property. The TDM Plan shall complement and be generally consistent with those TDM commitments associated with the Phase A Property and the synergies already expected from the Proposed Phase B Development and the numerous transportation systems management programs and improvements referenced elsewhere in these Proffers.

A. Definitions:

(i) Applicant Control Period. The "Applicant Control Period" is the period starting immediately following approval of this Rezoning Application and ending on the date when two (2) consecutive annual Trip Counts conducted starting at least one (1) full calendar year after the Proposed Phase B Development reaches Build Out show that vehicle trips generated by the residential units are less than or equal to the Phase III TDM Goal (as defined herein); provided, however, that implementation of the TDM Plan may not be assigned by the Applicants to a successor UOA /COA until the Applicant Control Period has expired. Upon expiration of the Applicant Control Period, the Applicants shall have no further obligations under this Proffer, the Letter of Credit/Cash (as defined in this Proffer) provided by the Applicants shall be returned to the Applicants, and on-going implementation of the TDM Plan and funding of the TDM Budget (and 10% contingency) shall be the responsibility of the UOA/COA as outlined in Paragraph K.

(ii) Build Out. For purposes of this Proffer, "Build Out" of the proposed Phase B development shall be deemed to occur upon the issuance of (a) 100% of all RUPs for all residential uses site plan approved and constructed on the Phase B Property and (b) construction of 80% or more of the floor area site plan approved within the Phase B Property for Secondary Retail Uses.

(iii) Peak Hours. For purposes of this Proffer, the relevant weekday "Peak Hours" shall be that 60-minute period during which the highest weekday volume of mainline trips occurs between 6:00 to 9:00 AM and 4:00 to 7:00 PM, as determined by mechanical and/or manual traffic counts conducted at two select locations along Gallows Road between I-66 and Lee Highway and at two select locations along Prosperity Avenue between Lee Highway and Gallows Road and as approved in consultation with FCDOT. To determine the Peak Hour, such counts shall be collected beginning on a Monday at 2400 hours and continuing to the following Thursday at 2400 hours at a time of year that reflects typical travel demand conditions (e.g. September to May, not during a holiday week or when area public schools are not in session). The relevant Peak Hours shall be defined in conjunction with each of the Trip Counts (as defined herein) required pursuant to this Proffer. The methodology for determining the Peak Hours may be modified subject to approval of FCDOT, but without requiring a PCA, in order to respond to technological and/or other improvements in trip counting.

(iv) TDM Program Manager. The TDM "Program Manager" ("PM") shall be a qualified or trained individual appointed by the Applicants to oversee all elements of the TDM Plan and act as the liaison between the Applicant/UOA/COA and FCDOT. The PM may be employed either directly by the Applicants or UOA/COA, or be employed through a property management company contracted by the Applicants or UOA/COA. The PM position may be part of other duties assigned to the individual.

(v) TDM Account. The TDM Account shall be an interest bearing account established by the Applicants with a banking or other financial institution qualified to do business in Virginia and used by the PM each year to implement the TDM Plan in accordance with the TDM Budget.

(vi) TDM Budget. The "TDM Budget" is the estimated costs sufficient to implement the TDM Plan in a given year and shall include a contingency (the "TDM Budget Contingency") equivalent to a minimum of 10% of the amount of the TDM Budget. The TDM Budget as required by FCDOT may be less than, but shall be no more than $166,925 (including the 10% TDM Budget Contingency) per full calendar year as adjusted for any increases in the CPI per Paragraph B-39. However, the Applicants may, at their sole discretion, increase the TDM Budget (including the TDM Budget Contingency) for any calendar year.

(vii) TDM Penalty Fund. The "TDM Penalty Fund" is an account into which the Applicants will deposit penalty payments as may be required to be paid pursuant to this Proffer (the "TDM Penalty Fund").

(viii) TDM Remedy Fund. The TDM Remedy Fund shall be an interest bearing account established by the Applicants with a banking or other financial institution qualified to do business in Virginia and used to supplement the TDM Account in support of additional TDM strategies that may be determined to be necessary following any of the Trip Counts for which sufficient funding is not immediately available via the then-existing TDM Account.

B. Trip Reduction Goals. The objective of the TDM Plan shall be to reduce the number of weekday peak hour vehicle trips generated by the residential uses located within the Phase B Property through the use of mass transit, ridesharing and other strategies including but not limited to those outlined in the TDM Strategic Plan. The proposed Phase B development shall be designed to maximize interactions among the various uses on the Phase B Property such that fewer automobile trips will occur within the site and on the external road network though the creation of synergistic relationships among the uses within the Phase B Property and with the Phase A Property wherever feasible. In addition, the implementation of enhanced pedestrian and bicycle connections/facilities will provide safe and convenient access to nearby Metrorail and bus facilities thereby encouraging commuting options other than the automobile to residents, employees and visitors to the Phase B Property.

(i) Baseline. The baseline number of weekday peak hour residential vehicle trips for the proposed units within the Phase B Development against which the TDM Goals (as defined in subparagraph B.ii) will be measured shall be derived upon the number of residential units site plan approved, constructed and occupied on the Phase B Property as part of the proposed Phase B development at the time traffic counts are conduced in accordance with subparagraph J.i or as qualified below and using the trip generation rates/equations applicable to such residential uses as set forth in the Institute of Transportation Engineers, Trip Generation, 7th Edition for Land Use Code = 220. In the event at Build Out, the Applicants have constructed fewer than 1,150 multifamily residential units as part of the proposed Phased B development, then the Baseline Trip generation numbers applicable upon Build Out shall be calculated as if 1,150 residential units had actually been constructed as reflected in the Traffic Impact Study for the Halstead III Mixed Use Development prepared by Gorove/Slade Associates, Inc. dated May 2007.

(ii) TDM Goals. The reduction of Peak Hour trips depends, in part, on the synergy of uses created through implementation of the Proposed Phase B Development, the "TDM Goals" shall be phased in accordance with the issuance of the RUPs for the residential dwelling units and the floor area constructed for the Secondary Retail Uses as follows:

TDM Phase	Residential Use Permits (RUP)	Non-Residential Floor Area GSF	TDM Trip Reduction Goal
I	1 to 300	≤ 23,314 GSF	20%
II	301 to 825	23,315 GSF to 65,818 GSF	28%
III	≥ 826	≥ 65,819 GSF	40%

C. Components of the TDM Plan. In order to meet the TDM Goals set forth in this Proffer, the Applicants shall implement the TDM Plan subject to FCDOT approval. Because the TDM Plan represents the strategy to be employed by the PM to meet the TDM Goal(s), the TDM Plan may be amended from time to time, subject to approval of FCDOT, without the requirement to secure a PCA; provided, however, any amendment to the TDM Plan shall include, at a minimum, provisions for the following with respect to the proposed Phase B development:

(i) Designation of PM, as more particularly described below;

(ii) Regular and on-going coordination with the transportation coordinator designated for the Phase A Property, other Merrifield TDM programs and any Transportation Management Agency that may be established.

(iii) A targeted marketing program for residential sales/leases that encourages and attracts transit-oriented residents, such as bicyclists, one or no-car individuals/families and employees of nearby employers to live in the proposed Phase B development; provided, however, that such marketing shall be completed on a non-discriminatory basis in conformance with the Fair Housing Act and all other applicable laws and regulations;

(iv) Integration of transportation information and education materials into residential sales/rental kits;

(v) Coordination/Assistance with vanpool and carpool formation programs, including but not limited to the County's ride matching services, with adjacent office buildings and homeowners associations and established local and/or regional guaranteed ride home programs;

(vi) Establishment of a site-specific project website (including targeted information on a building-by-building basis) that includes multimodal transportation information, real-time travel and transit data, the possibility of online transit pass sales or value loading and connections to supporting links;

(vii) Establishment of a location to be staffed/managed by the PM (as defined below) within the Phase B Property at which transit and ridesharing information is made available to both residents and non-residents; the location may be determined by the Applicants and may be part of the leasing/sales or concierge office for/inside the Residential Buildings or within the business center outlined in subparagraph xiv below;

(viii) A parking management plan, which shall include (i) a unit sales/rental program/policy under which each residential unit is allocated one (1) parking space as part of the base purchase/rental price, and that additional parking spaces may be purchased/leased at market rates; and (ii) dedicated space for residential vanpools and car-sharing vendors not otherwise addressed herein;

(ix) Distribution of fare media or other incentives, at least one time, to all initial residents of driving age, as well as on select occasions as an incentive;

(x) Subject to agreement with third-party vendor(s) use of car sharing program(s) (such as ZipCar/FlexCar);

(xi) Establishment of a phasing strategy, coordinated with FCDOT as provided herein, to address which TDM strategies are implemented at what time;

(xii) "Personalized transportation advising" integrated into new unit walk-throughs, including appropriate training of sales/leasing agents.

(xiii) All residential units shall be pre-wired to provide internet access (or other technology that may be available) to permit residents to access the internet from home.

(xiv) Space for and fit out of a business center for use by Phase B residents in one of the four buildings. Such business center(s) shall consist of an aggregate of a minimum of 400 square feet of floor area and shall include areas for internet access, facsimile machine and copier.

D. TDM Program Manager (PM). Within 30 days after the issuance of the first building permit for the Phase B Property, the Applicants shall appoint a PM for the Phase B Property, whose duties shall be to further develop, implement and monitor the various components of the TDM Plan, as well as coordinate with the transportation coordinator for the Phase A Property on a regular and ongoing basis. The PM position may be part of other duties assigned to the individual. The Applicants shall provide written notice to FCDOT of the appointment of the PM within ten (10) days of such appointment, along with evidence of such PM's qualifications, and, thereafter, within ten (10) days of any change in such appointment. Following the initial appointment of the PM, the Applicants or UOA/COA, as applicable, thereafter shall continuously employ, or cause to be employed, a PM for the Phase B Property.

E. TDM Plan and Budget. Within ninety (90) days following the issuance of the first building permit for the Phase B Property, the PM shall prepare and submit an initial TDM Plan to FCDOT and request in writing, the County's review and comment. The TDM Plan shall include (i) the start-up components of the TDM Plan that will be put in place and (ii) an initial budget sufficient to implement the TDM Plan for the remainder of the year and for the next calendar year (the "TDM Budget") which amount may be less but in no event shall not be more than $166,925 (including the TDM Budget Contingency) for each full calendar year, adjusted annually for inflation based on the CPI as defined in Proffer B-39 unless increased at the sole discretion of the Applicants. With the submission of the initial TDM Plan, the Applicants shall provide the County with a copy of the approved proffers and the TDM Strategic Plan. The TDM Budget shall include a contingency equal to ten percent (10%) of the amount of the annual TDM Budget (the "TDM Budget Contingency"). If FCDOT has not responded with any comments to the PM within sixty (60) days of receipt of the initial TDM Plan and TDM Budget, the TDM Plan and TDM Budget shall be deemed approved. The Applicants shall provide written documentation demonstrating the establishment of the TDM Budget to FCDOT no later than thirty (30) days after FCDOT's response to the proposed TDM Budget and Plan or following the sixty (60) day period described above.

Thereafter, the PM shall re-establish the TDM Budget for each successive calendar year, which shall cover the costs of implementation of the TDM Plan for such year (including the TDM Budget Contingency) up to $166,925 as may be adjusted annually for inflation based on the CPI or as increased at the Applicants' sole discretion. The PM shall furnish a copy of the TDM Budget and TDM Plan for each year to the FCDOT and request in writing the County's review and comment in conjunction with the submission of the Annual Report as outlined in subparagraph I.ii. A line item for the TDM Account shall be included in the UOA/COA budget upon the establishment of the UOA/COA. The association documents that establish and control the UOA/COA shall provide that the TDM Account shall not be eliminated as a line item in the UOA/COA 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 funded solely by the Applicants until such time as assessments of residents and commercial owners are implemented as provided in the UOA/COA documents.

F. TDM Account.

(i) Initial Funding. Within thirty (30) days after FCDOT's response to the initial TDM Budget and TDM Plan or following the sixty (60) day process described above, the Applicants, through the PM, shall establish and fund the TDM Account in an amount equal to the initial TDM Budget for the TDM Plan and including the TDM Budget Contingency but in any event no more than $166,925 per full calendar year and as may be adjusted annually for inflation per any changes in the CPI or as increased at the Applicants' sole discretion. The PM shall provide written documentation demonstrating the establishment of the TDM Account to FCDOT within ten (10) days of its establishment.

(ii) Annual Funding. The TDM Account shall be replenished annually thereafter based on the forthcoming year's estimated TDM Budget.

(iii) Management of TDM Account. The TDM Account shall be managed by the Applicants (or successor developer) through the PM until such time as the Applicant Control Period terminates. Thereafter, management of the TDM Account shall become the responsibility of the UOA/COA. As applicable, a line item for the TDM Account shall be included in the UOA/COA budget upon the establishment of the UOA/COA. The association documents that establish and control the UOA /COA shall provide that the TDM Account shall not be eliminated as a line item in the UOA/COA budget, and that funds in the TDM Account shall not be utilized for purposes other than to fund the TDM Plan. The TDM Account shall be funded solely by the Applicants (or successor developer) until such time as the Applicant Control Period expires or the pro-

rata assessments of residents are implemented as provided in the UOA /COA documents, whichever is first.

G. TDM Remedy Fund. Concurrent with the establishment and funding of the TDM Account, the Applicants shall establish a separate, interest-bearing account referred to herein as the "TDM Remedy Fund." All interest earned on moneys deposited in the TDM Remedy Fund shall be added to the principal of the TDM Remedy Fund and used for TDM Remedy Fund purposes. Within thirty (30) days after the issuance of the first RUP for the Phase B Property, the Applicants shall contribute $170,000 to the TDM Remedy Fund (as may be escalated pursuant to Paragraph B-39). Moneys from the TDM Remedy Fund shall be drawn on by the Applicants or UOA/ COA only for purposes of immediate need of TDM funding and may be drawn upon prior to any TDM Budget adjustments that may be required under Paragraph F above. Coincident with the submission of the annual report for the first year following build out of the Phase B Property, the Applicants shall contribute an additional $170,000 (as escalated pursuant to Proffer B-39) to the TDM Remedy Fund.

(i) Excess Funds in TDM Account. Until such time as the Phase III TDM Goal is met, any funds remaining in the TDM Account at the end of any given year shall be carried over to the following year's TDM Budget or transferred in the Applicants' sole discretion, in whole or in part to the TDM Remedy Fund and/or Incentive Fund, as defined respectively in Paragraphs G or H.

(ii) Transfer of Remedy Fund. Upon expiration of the Applicant Control Period, the Applicants shall transfer any funds remaining in the Remedy Fund to the UOA/COA or successor developer/management company for TDM purposes.

H. TDM Purchase Incentives. Within thirty (30) days after the issuance of the first RUP for each Residential Building to be constructed as part of the proposed Phase B development, the Applicants shall make a one time contribution of $135/unit based on the total number of units per building reflected on the applicable approved building plans to a segregated sub-account in the TDM Account to fund a transit incentive program for initial purchasers and/or lessees of residential units in such building. Such program shall be prepared by the Applicants, in coordination with FCDOT, and shall include consideration for fare media distribution and value loading, financing incentives, and alternative incentives (such as grocery delivery) tailored to residents that are not likely to make use of alternative commute option benefits.

I. Monitoring and Reporting.

(i) Annual Surveys. Between September and November beginning with the year following issuance of the first RUP for the Phase B Property, the PM shall conduct a survey of residents within the Phase B Development (the "Annual Survey") designed to evaluate the effectiveness of the TDM Plan in meeting the TDM Goals applicable at that time and to evaluate the need for changes to the TDM Plan. The PM shall coordinate the draft Annual Survey materials and the methodology for validating Survey results with FCDOT at least thirty (30) days prior to each year's Annual Survey. If an Annual Survey reveals that changes to the TDM Plan are needed or advisable, then the PM shall coordinate such changes with FCDOT and, as necessary, adjust the TDM Budget and implement the revisions for the following year's program. The PM shall submit as part of each Annual Report (defined below) an analysis of the Annual Surveys to FCDOT. Such analysis shall include at a minimum:

(1) A description of the TDM measures in effect for the survey period and a description of how such measures have been implemented;
(2) The number of people surveyed and the number of people who responded;
(3) The results of the surveys taken during the survey period;
(4) The number of residents, employees and/or others participating in the TDM programs, displayed by category and mode of use;
(5) An evaluation of the effectiveness of the TDM program elements in place, including their effectiveness at achieving the TDM Goals, and, if necessary, proposed modifications;
(6) A description of the uses constructed and occupied on the Property at the time the Survey was conducted.

(ii) Annual Report. The PM shall report annually to FCDOT on the TDM Plan (the "Annual Report") no later than January 31st of each calendar year and after completion of the Annual Survey and, as required, the annual Trip Count. The Annual Report shall include (a) a description of the prior year's TDM strategic efforts, including, as applicable, sample marketing materials; (b) a financial statement that includes the TDM Budget and TDM Account revenues and expenditures for the preceding year; (c) an analysis of the Annual Survey for the preceding year, (d) a compilation and analysis of any Trip Counts that were conducted during the preceding year; (e) discussion of any changes to the TDM Plan for the upcoming year; and (f) the TDM Budget for the upcoming year.

(iii) Adjustments to Calendar and Due Dates. Upon mutual agreement between FCDOT and the PM, the due dates for the delivery of the Annual Report may be extended by up to sixty (60) days if changes have occurred, or appear to have occurred, in trip characteristics resulting from events such as the opening of an additional phase of development or changes to the TDM Plan that are not yet fully implemented as of the due date for the Annual Report.

(iv) Meetings with FCDOT. The PM shall meet with FCDOT annually, or as mutually agreed, to discuss the results of the Trip Counts, the Annual Survey, the Annual Report and the TDM Plan.

J. Trip Counts.

(i) Annual Trip Counts. The PM shall conduct a Trip Count between September 1st and November 30th (excluding county/state/federal holiday weeks or when area public schools are not in session) beginning with the year following the issuance of the first RUP for the first residential building constructed within the Phase B Property. The purpose of such Trip Count is to measure the actual vehicle trips generated by the residential uses constructed on the Phase B Property as of the date the Trip Count is completed and to evaluate whether such vehicle trips are less than, equal to or greater than the applicable phased TDM Goal (which is determined by the number of RUP's issued and the gross floor area constructed for the Secondary Retail Uses) as set forth in subparagraph B.ii above. Trip Counts provided to FCDOT shall include information on the number and percentage of RUPs and the amount of floor area approved and constructed for the Secondary Retail Uses on the Phase B Property as of the date of the Trip Count.

(ii) Methods. For purposes of this Proffer, Trip Counts shall be measured on three (3) days over a maximum two-week period (but not including a week containing a county/state/federal holiday or when area public schools are not in session) between September 1 and November 30 of each calendar year, or such other time as the PM and FCDOT shall mutually determine. At least thirty (30) days prior to conducting the Trip Counts, the PM shall meet with FCDOT to review and reach agreement on the dates and methodology for the Trip Counts and the analyses to be done after the Trip Counts are complete. The Trip Counts shall include Peak Hour counts of vehicles entering and exiting driveways to buildings within the Phase B Property. Supplemental intersection turning movement counts at those street connections to/from the Phase B Property, may also be conducted if deemed necessary by FCDOT. The Trip Counts shall be conducted so that only trips

generated by the residential uses on the Phase B Property shall be counted (i.e. cut-through trips, Metro trips, retail/hotel trips, etc., shall be excluded). Values will be provided for each residential building included in the Phase B Property, and a sum of vehicle trips generated by the residential uses in the Phase B Property will be calculated. Residents ***will not*** be advised of the date Trip Counts will be conducted.

(iii) Frequency of Trip Counts. Once initiated, the PM shall conduct Trip Counts annually until such time as two (2) consecutive annual Trip Counts conducted starting at least one (1) full calendar year after the Phase B Property reaches Build Out as defined in subparagraph B.ii show that vehicle trips generated by the multifamily residential units are less than or equal to the Phase III TDM Goal. If the results of two (2) consecutive Trip Counts reveal that the Phase III TDM Goal has been met, then the Applicant Control Period shall expire as provided in this Proffer, the Letter of Credit (as defined in Paragraph L) (or cash, as applicable) shall be returned to the Applicants, and the Applicants shall have no further responsibility under this Proffer. Thereafter, the UOA/COA (or successor developer/management company) shall be responsible for the on-going implementation of the TDM Plan pursuant to Paragraph K and shall conduct additional Trip Counts as set forth in this Proffer. Notwithstanding the provisions of this paragraph, FCDOT may request Trip Counts be undertaken at any time to validate traffic data, but not more frequently than once per calendar year. If such requests are made by FCDOT, the PM shall conduct the requested Trip Counts.

(iv) Evaluation. The results of each Trip Count shall be compared to the trip reduction goals established in this Proffer for the then-applicable phase of the Phase B Property to determine whether actual traffic counts are equal to, less than or greater than the maximum allowed trips for the then-applicable TDM Goal as calculated in accordance with subparagraph B.i.

(1) Pre-Build Out

a. In the event the trips generated by the residential units prior to Build Out, as defined in Paragraph A.ii, and evidenced by conducted Trip Counts are equal to or less than the maximum allowed trips established in accordance with Paragraph B. i above as determined by the then-applicable phase of the proposed Phase B development, then (i) no penalty is owed, and (ii) the PM shall continue to administer

the TDM Plan in the ordinary course, in accordance with the provisions of these Proffers until Build Out is reached, after which subparagraph iv.b below shall apply.

b. In the event the trips generated by the residential units prior to Build Out, and as evidenced by conducted trip counts are greater than the maximum allowed trips set forth in Paragraph B.i above as determined by the then-applicable phase of the proposed Phase B development, then the PM shall (a) develop modifications to the TDM Plan and the TDM Budget; (b) implement certain of the supplemental strategies outlined in the TDM Strategic Plan to address the surplus of trips; and (c) submit such revisions to the TDM Plan and TDM Budget to FCDOT as part of the Annual Report as outlined in Paragraph I.ii; and (d) request in writing the County's review and concurrence with the TDM Plan and Budget. If no written response is provided by FCDOT within forty-five (45) days, the PM's revisions to the TDM Plan and updated TDM Budget shall be deemed approved. Following approval of the revised TDM Plan and updated TDM Budget or after the forty-five (45) day period outlined above, the PM shall (a) increase the TDM Account with TDM Remedy Funds, at the Applicants' sole discretion, if necessary in order to cover any proportional additional costs to implement the updated TDM Budget; and (b) implement the provisions of the revised TDM Plan.

(2) Build Out.

a. In the event the trips generated by the residential units at the time of the build-out count reveal that the applicable trip reduction goals outlined Proffer B-15.B.ii have not been met, then the Applicants shall (a) pay into the TDM Penalty Fund in accordance with Proffer B-15-L-i below; (b) develop modifications to the TDM Plan and TDM Budget; and/or (c) implement one or more of the supplemental strategies outlined in the TDM Strategic Plan to address the surplus of trips. The PM shall submit any such revision to the TDM Plan and TDM Budget to FCDOT as part of the Annual

Report as outlined in Proffer B-15-I-ii and request in writing the County's review and concurrence. If no written response is provided by FCDOT within forty-five (45) days of receipt of the Annual Report, the PM's revisions to the TDM Plan and updated TDM Budget shall be deemed approved. Following approval of the revised TDM Plan and updated TDM Budget or after the forty-five (45) day period outlined above, the PM shall (a) increase the TDM Account with TDM Remedy Funds at the Applicant's sole discretion, if necessary, in order to cover any proportional additional costs to implement the updated TDM Budget; and (b) implement the provisions of the revised TDM Plan.

If two (2) consecutive annual Trip Counts conducted in accordance with this Proffer reveal that the trip reduction goals are met after Build Out of the Property, as defined in Proffer B-15-B-ii, then (i) no penalty is owed, (ii) the PM shall continue to administer the TDM Plan in the ordinary course, in accordance with the provisions of these Proffers, and (iii) the Applicant Control Period Expires, after which Proffer B-15-K below shall apply.

K. Ongoing Implementation of TDM Plan. Once the Applicant Control Period has expired, the Letter of Credit/Cash (as defined in this Proffer) (as then-valued) shall be returned to the Applicants, and thereafter the UOA/COA shall be responsible for ongoing implementation of the TDM Plan. The PM shall conduct additional Trip Counts at five (5) year intervals to determine whether the Phase III TDM Goal, as established by this Proffer, continues to be met. In the event that an Annual Report submitted by the PM demonstrates through trend analysis that a change in commuting patterns has occurred that is significant enough to reasonably call in to question whether the Phase III TDM Goal continues to be met, as determined by FCDOT, then FCDOT may request the PM conduct additional Trip Counts on a more frequent basis (but not more frequently than once per year) to determine whether, in fact, the Phase III TDM Goal is being met.

(i) Continuation of TDM Plan. In the event subsequent Trip Counts conducted after the Applicant Control Period expires reveal that the actual trips generated remain equal to or less than the maximum number of trips permitted under Phase III TDM Goal,

then the PM shall continue to implement the TDM Plan and to make Annual Reports to FCDOT.

(ii) Further Revisions to TDM Plan. In the event subsequent Trip Counts conducted after the Applicant Control Period expires reveal that the actual number of trips generated by the Phase B residential units are greater than the maximum number of trips permitted under the Phase III TDM Goal, as established by this Proffer, then the PM shall convene a meeting with FCDOT within thirty (30) days of the completion of the Trip Count to review the results of the Trip Count and the TDM Plan then in place and to develop modifications to the TDM Plan and the TDM Budget to address the surplus of trips. The PM shall submit any revisions to the TDM Plan and TDM Budget to FCDOT within thirty (30) days following this meeting and request in writing the County's review and concurrence. If no written response is provided by FCDOT within forty-five (45) days, the PM's revisions to the TDM Plan and updated TDM Budget shall be deemed approved. Following approval of the revised TDM Plan and updated TDM Budget, the PM shall (a) increase the TDM Account with TDM Remedy Funds, if necessary, in order to cover any proportional additional costs to implement the updated TDM Budget; and (b) implement the provisions of the revised TDM Plan as developed in consultation with FCDOT. The PM shall repeat the process above (including additional adjustments to the TDM Plan, additional funding and additional monitoring) until the Phase III TDM Goal again has been met for two (2) consecutive years, whereupon the PM shall then be required to conduct Trip Counts only at five (5) year intervals, as described above.

L. TDM Penalty Fund. Prior to the issuance of the first RUP for the first residential building, the Applicants (or its successor owner or developer, but not the UOA/COA) shall (a) establish the TDM Penalty Fund and (b) deliver to the County (i) $500,000.00 cash or (ii) a clean, irrevocable letter of credit in the stated amount of $500,000.00 issued by a banking institution approved by the County to secure the Applicants' obligations to make payments into the TDM Penalty Fund as described below (collectively, the "Letter of Credit/Cash). If a letter of credit is used to secure the TDM Penalty Fund, then it shall name the County as the beneficiary and shall permit partial draws or a full draw.

(i) Establishment of TDM Penalty Fund; Letter of Credit. During the Applicant Control Period, if the results of any consecutive annual Trip Counts conducted at least two (2) full calendar year after the Phase B Property reaches Build Out reveal that the actual vehicle trips generated by the residential units exceed the maximum number of trips permitted under the Phase III TDM Goal, then the

Applicants shall pay into the TDM Penalty Fund the amounts specified below. FCDOT may thereafter withdraw funds from the TDM Penalty Fund. If the Applicants fail to pay what is due to the TDM Penalty Fund, then, upon thirty (30) days written demand, FCDOT may draw against the Letter of Credit/Cash in the amount then due and owing. FCDOT shall apply funds withdrawn from the TDM Penalty Fund, or drawn under the Letter of Credit/Cash, for transportation enhancements and/or improvements in the vicinity of, and serving the Phase B Property, including contributing to the provision of an area wide circulator serving the Merrifield Station and Town Center Areas, establishment of a Merrifield Transportation Management Association and/or additional transit incentives for residents of the Phase B Property. The maximum aggregate amount of all penalties to be paid under this paragraph L is $500.000.00. No penalties shall be imposed while the Phase I and Phase II TDM Goals are applicable.

(a) Failure up to 2%. A failure in the reduction of trips in either or both of the Peak Hours by two percent (2%) or less requires the Applicants to make a payment to the TDM Penalty Fund of $1,000 per vehicle trip for each trip that exceeds the Phase III TDM Goal for the greater of the applicable Peak Hour.

(b) Failure Greater than 2% but less than or equal to 5%. A failure in the reduction of trips in either or both of the Peak Hours by more than two percent (2%) but less than or equal to five percent (5%) requires the Applicants to make a payment into the TDM Penalty Fund of $1,500 per vehicle trip for each trip that exceeds the Phase III TDM Goal for the applicable Peak Hour

(c) Failure Greater than 5%. A failure in the reduction of trips in either or both of the peak hours by an amount greater than 5% requires the Applicants to make a payment into the TDM Penalty Fund of $2,000 per vehicle trip for each trip that exceeds the Phase III TDM Goal for the applicable Peak Hour.

M. Enforcement. If the PM fails to timely submit the Annual Report for the Phase B Property to FCDOT as required by this Proffer, the County may thereafter issue the PM a notice stating that the PM has violated the terms of this Proffer and providing the PM sixty (60) days within which to cure such violation. If after such sixty (60) day period the PM has not submitted the delinquent Annual Report, then the Applicants and/or UOA/COA, as applicable, shall be subject to a penalty of $200 per day payable to Fairfax County to be used for transit or transportation related

improvements in the vicinity of the Property until such time as the report is submitted to FCDOT.

N. TDM Obligations. All residents, tenants, owners, employers and employees living, working, operating a business or owning property within the Phase B Property shall be advised of the TDM Plan described in these Proffers. All UOA/COA members shall be informed of any funding obligations resulting from the application of these Proffers prior to entering into a lease/contract of sale, and all such obligations shall be included in UOA/COA documents.

SITE DESIGN AND AMENITIES

B-18. Landscape Plan. The Applicant's Phase B CDP/FDP includes a conceptual landscape plan for the Phase B Property (Sheet 10) and detail sheets (Sheets 11-18) illustrating the plantings and other features to be provided.

A. As part of each site plan submission, the Applicants shall submit to Urban Forest Management Division of DPWES for review and approval a detailed landscape and tree cover plan (the "Landscape Plan"), which shall include, among other things:

(i) Irrigation information (all landscaping areas shall be irrigated);

(ii) Design details for tree wells and other similar planting areas above structures and along streets;

(iii) Composition of the planting materials and/or structural soils used where plantings are to be located within or on top of structures and other methods to be used to insure the viability of the proposed plantings;

(iv) Other information that may be requested by the Urban Forest Management Division.

B. Such Landscape Plan shall be consistent with the quality and quantity of plantings and materials shown on the Phase B CDP/FDP. Adjustments to the type and location of vegetation and the design of the Plaza, courtyard areas and streetscape improvements and plantings shall be permitted in consultation with DPZ and the Urban Forest Management Division of DPWES if determined to be in substantial conformance with the Phase B CDP/FDP.

C. The Applicants shall install street trees consistent with the plans included on the Phase B CDP/FDP. For trees not planted within an 8-foot wide minimum planting area, or that do not meet the minimum planting area required by the PFM, the Applicants shall provide a minimum of 130

square feet of surface area of structural soil for Category 4 shade trees and 90 square feet of surface area of structural soil for Category 3 shade trees, as such trees are identified in the PFM. The structural soil shall have a minimum width of 8-feet and a minimum depth of 36-inches and such planting areas shall be interconnected to the extent feasible, as determined by Urban Forest Management.

At the time of site plan submission, the Applicants shall provide written documentation, including written confirmation from a certified arborist and/or landscape architect verifying installation of the structural soil consistent with the requirements of this Proffer.

B-19. Streetscaping. Streetscape improvements and plantings shall be provided as indicated on Sheets 12 through 15 of the Phase B CDP/FDP. Notwithstanding the foregoing, the Applicants reserve the right, in consultation with the Zoning Administrator, to shift the location of street trees along the proposed streetscapes to accommodate final architectural design, utilities and layout considerations, so long as such modifications are in general conformance with the CDP/FDP. In the event the trunks of street trees shown on the CDP/FDP conflict with sight distance requirements, the Applicants shall relocate said trees to another location on the Phase B Property.

B-20. Public Plazas. The Applicants shall construct a public plaza (the "Plaza") to be located between Buildings 1 and 2, as more particularly shown on Sheet 14 of the Phase B CDP/FDP. The Plaza shall include landscaping, hardscape areas (such as concrete walkways with brick pavers, stonework, etc.), benches, seating areas and similar passive recreation amenities. Private Street traversing the plaza shall be delineated with bollards and shall not incorporate curbs and gutters. The Plaza also shall include a focal point feature to be selected by the Applicants, such as a fountain, public art or similar amenity that will serve as a defining feature for the development. The Applicants shall also provide bicycle racks near the Plaza, in locations as generally shown on Sheet 9 of the Phase B CDP/FDP and coordinated with FCDOT prior to approval of the site plan for the Plaza. The Plaza shall be functionally complete (benches, landscaping and lighting installed) and open for use (subject to minor adjustments and punch-list items) prior to the issuance of the first Non-RUP for the Secondary Uses to be established in Building 1.

A second smaller plaza shall be constructed between Buildings 3 and 4 as shown on Sheet 15 of the Phase B CDP/FDP. Construction shall occur with the construction of Private Street.

B-21. Pedestrian/Bicycle Circulation. In combination with the Streetscape improvements identified in these Proffers, the Applicants shall provide sidewalks of varying widths and crosswalks at key intersections, as indicated on the Phase B CDP/FDP. The sidewalks shall be constructed concurrent with the development of the Phase B Property. All on-site sidewalks not located in the right-of-way

shall be maintained by the Applicants and/or UOA/COA. Sidewalk improvements located within existing or proposed right-of-way shall be as approved by VDOT. The Applicants also shall provide a five foot (5') bike lane along Gallows Road as shown on Sheet 6 of the Phase B CDP/FDP. Except for those features shown on the Phase B CDP/FDP, the Applicants shall not erect barriers or other physical impediments on the Phase B Property (such as gates or fences) that are designed to restrict or preclude pedestrian access across the Phase B Property by patrons, invitees or guests of the Secondary Uses during the normal hours of operation for such services. The Applicants shall not preclude the possibility for pedestrian access between Buildings 1 and 3 should the residents of Wilton House (Tax Map 49-2 ((46)) All) desire such access.

B-22. Amenities and Facilities for Residents. The Applicants shall provide as part of Building 1, 2, 3, and 4 facilities designed to meet the on-site recreational needs of the future residents of the Phase B Property. Pursuant to Paragraph 2 of Section 6-110 and Paragraph 2 of Section 16-404 of the Zoning Ordinance regarding developed recreational facilities, the Applicants shall expend a minimum of $955 per market-rate residential unit on such recreation facilities. Prior to final bond release for the Phase B Property, the balance of any funds not expended on-site shall be contributed to the Fairfax County Park Authority for the provision of recreation facilities located in proximity to the Phase B Property.

The Applicants shall provide the following facilities or amenities in one or more of Buildings 1, 2, 3 and 4, provided that a substantially-comparable level of amenities are provided in each building or are shared between the buildings:

A. Exterior courtyard areas to be located on the top deck of the parking structure(s) or rooftops of Buildings 1, 2, 3 and 4, as illustrated on Sheets 10 and 15 of the Phase B CDP/FDP, with informal seating areas, landscaping, hardscape areas, passive recreation areas with at least two swimming pools. The Applicants reserve the right to provide an additional courtyard swimming pool without the necessity for a PCA or CDPA/FDPA provided the additional swimming pool courtyard is designed with similar level of details and amenities as shown on the Building 3 swimming pool area;

B. Storage facilities, including bike racks, for use by residents of the building, which may be provided in the Cellar Space as defined in these Proffers;

C. Clubroom(s) for community gatherings with a minimum aggregate square footage of 1,000 square feet;

D. A media/entertainment center outfitted with large screen/projection TV(s), seating areas and stereo/sound equipment;

E. Fitness center(s) with a minimum aggregate square footage of 1,500 square feet, with equipment such as stationary bikes, treadmills, weight machines, free weights, etc.;

F. One or more sport courts; and

G. Business center(s), with a minimum aggregate square footage of 400 square feet, with broadband or high-speed data connections (including "secure" voice and/or data connections), computers, facsimile machine and similar items.

B-23. Lighting. Outdoor lighting shall comply with the Outdoor Lighting Standards of Section 14-900 of the Zoning Ordinance. Building mounted security lighting shall utilize full cut-off fixtures with shielding such that the lamp surface is not directly visible.

B-24. Signage. Signage for the Phase B Property shall be provided in accordance with the requirements of Article 12 of the Zoning Ordinance or pursuant to a Comprehensive Sign Plan approved by the Planning Commission. In either event, however, a coordinated signage system, including wayfinding signs and potential retail "trade dress" awning signage, shall be provided for all residential and non-residential uses to establish a theme throughout the Phase B Property. Signage shall be coordinated with signage provided in Phase A. If lighted, signage may be internally lighted, neon or lighted via downward-directed lights. Pole-mounted signage shall be prohibited. No signs or other amenities shall be located in or near public right-of-way such that they obstruct sight distances at intersections of the Phase B Property with public streets. The Applicants reserve the right to provide monument signage not specifically shown on the CDP/FDP with approval of a Comprehensive Sign Plan.

ARCHITECTURAL DESIGN AND BUILDING MATERIALS

B-25. Retail Storefronts.

A. External Streetscape Presence. The Applicants shall encourage retail and other tenants/uses with ground floor street frontage along Gallows Road, Merrilee Drive and Private Street to create a lively building façade and pedestrian-oriented streetscape that provides interest to pedestrians and vehicles, as more particularly shown on Sheets 12-15 of the Phase B CDP/FDP. Elements of this program may include, but need not be limited to, transparent exterior storefront facades (as outlined below) and entries, landscaping, restaurant seating areas, benches, canopies and awnings, decorative light fixtures, brick pavers, shade elements and other techniques with similar effect.

B. Glazing Requirements and Transparency Levels. All Merrilee Drive and Private Street ground floor retail/secondary use areas shall incorporate

materials such as glazed windows and doors to permit pedestrians or passersby to visibly see into the tenant space; provided, however, that nothing shall preclude the use of tenant displays or signature materials in the tenant windows that reduce the overall transparency of the facades, such as window lettering, signage, trim materials, display set-ups or other similar features.

B-26. Building Design.

A. Architecture and Materials. The general architectural design of the proposed buildings is shown on Sheets 19-21 of the Phase B CDP/FDP (the "Conceptual Elevations"). The Conceptual Elevations are conceptual in nature and may be modified by the Applicants as part of final engineering and building design, provided that such modifications provide a similar quality of design as that shown. Building materials, as generally reflected on the Conceptual Elevations, shall be selected from among the following: siding (to be used only when combined with other materials such as brick or masonry on the interior of the Residential Buildings such as in the courtyards), brick, cementitious or other composite architectural panels, masonry/stone, aluminum trim, glass, steel, split-face block and pre-cast panels, provided that final architectural details and accents may include other materials. No EIFS shall be used. Bay windows, balconies, awnings, storefronts and other architectural details may be provided so long as such features do not extend more than eight (8) feet beyond the building footprints shown on the Phase B CDP/FDP, and provided that the streetscape features and dimensions at the ground plane are maintained. The Applicants shall submit the final architectural design of the buildings to the Providence District Supervisor for review, but not approval, prior to issuance of the building permits.

All buildings on the Phase B Property shall be designed from a loading capacity to support future green roof technologies.

B. Green Building Practices. The Applicants shall utilize green building practices for the residential and hotel buildings, including but not limited to:

(i) Buildings to be designed by a design firm with at least one LEED (or equivalent program) accredited professional on the team;

(ii) Allocate space for storage of recyclables, including but not limited to, fluorescent light bulbs, paper, cardboard, aluminum and glass, and provide for collection of recyclables within each building;

(iii) Prohibit smoking in the public areas of the residential and hotel buildings and provide designated smoking areas away from entries and operable windows; and

(iv) Utilize Energy Star (or equivalent) appliances in the residential buildings.

The Applicants shall provide DPWES with documentation of the above four requirements prior to receiving building permits for any of the proposed residential or hotel buildings.

B-27. Rear Façade of Buildings 2 and 4. The Applicants shall incorporate architectural design features into the rear façades of Buildings 2 and 4 that face the Southern Service Aisle, in keeping with the general character of that shown on Sheet 21. Such design features shall include glazed storefront windows wrapping the corners of the buildings at Gallows Road and Merrilee Drive, metal grilles over mechanical areas and garage exhausts; metal grilles or compatible elements on portions of the open garage; doors to screen loading and trash areas; decorative lighting; banners, wall art or similar features, all designed to screen "back of the house" elements, but without a requirement to match the design standards for buildings along Gallows Road, Merrilee Drive or Private Street.

Specialized first floor treatment shall be used on the corners of Buildings 2 and 4 at the intersection of the Southern Service Aisle and the North-South Aisle between Building 2 and 4. These corners shall be treated to emphasize this intersection and may include such elements as glazed windows, glass display cases, decorative glass panels, brick, cementitious or other composite architectural panels, masonry/stone, aluminum, steel, split-face block, pre-cast panels, wall murals, awnings or other distinctive architectural treatments. These corner treatments may incorporate project signage and wayfinding information.

The area between the service aisle and the building facades shall incorporate a minimum five (5) foot wide sidewalk and the landscape area as generally depicted on Sheet 9.

ENVIRONMENT

B-28. Stormwater Management Facilities.

A. Stormwater Quantity. As of the date of these Proffers, there is no on-site detention of stormwater runoff on the Phase B Property. Using (i) an underground detention vault as shown on the Phase B CDP/FDP, and (ii) structural and/or non-structural BMPs, the Applicants' site plan shall demonstrate that, after the full build-out, there is a net reduction in the combined peak rate of stormwater discharge from the Phase B Property of twenty-five percent (25%), which net reduction shall be based on a comparison of the conditions of the Phase B Property as currently developed and the conditions of the Phase B Property upon completion. The twenty-five percent (25%) net reduction shall apply to the sum of all stormwater discharge coming from the Phase B Property as a whole, but not as a standard reduction at each individual discharge location (meaning

that the discharge at individual locations may vary, so long as the overall reduction goal is achieved).

B. Best Management Practices. The Applicants shall, incorporate Best Management Practices ("BMP") in order to improve water quality associated with stormwater runoff. Using structural and/or non-structural BMPs such as sand filters, storm filters, Filterra devices or a combination thereof, the site plan shall demonstrate that, after the full build-out, there is a seventeen percent (17%) reduction of the phosphorous loading from the Phase B Property, based on a comparison of the conditions of the Phase B Property as currently developed and the conditions of the Phase B Property upon completion.

C. Low Impact Development. To further mitigate the environmental impacts beyond the 17% reduction in phosphorous loading required above, the Applicants shall, subject to approval by DPWES, incorporate Low Impact Development ("LID") strategies, in the courtyard plazas in Buildings 1, 2, 3 and 4. In order to (1) incorporate into otherwise impervious areas of the site a soil matrix and plantings intended to provide stormwater pollutant removal; (2) reduce the heat island effect; and (3) naturalize and add aesthetically-pleasing elements for residents, the Applicants shall install and maintain plantings and other materials within the courtyards to be located on the top decks of the parking structures for Buildings 1, 2, 3 and 4, as shown on the Phase B CDP/FDP. Each courtyard area shall include landscape plantings in a natural soil matrix over an under-drain system. Specific details concerning the plantings and design elements of the courtyard areas shall be included on the Landscape Plan be submitted pursuant to these Proffers.

D. Maintenance Responsibility.

(i) Regular Maintenance. Prior to initial site plan approval, the Applicants shall execute an agreement with the County in a form satisfactory to the County Attorney (the "SWM Agreement") providing for the perpetual maintenance of all of the elements of the stormwater management facilities, including the BMP and LID devices and underground detention facilities (collectively, the "SWM Facilities"). The SWM Agreement shall require the Applicants (or a successor UOA /COA) to contract with one or more maintenance/management companies to perform regular routine maintenance of the SWM Facilities and to provide a maintenance report annually to the Fairfax County Maintenance and Stormwater Management Division of DPWES. The maintenance responsibilities of the owners under the SWM Agreement shall be (a) disclosed to future purchasers prior to entering into a contract for sale; (b) specified in the UOA/COA documents; and (c) included on the record plats.

(ii) SWM Maintenance Fund; Residential Buildings. Prior to site plan approval for the first building to be constructed, the Applicants shall establish an account (the "SWM Maintenance Account") to be used for the ongoing maintenance of the SWM Facilities located on or serving the Phase B Property. The SWM Maintenance Account shall be an interest bearing account held by a financial institution authorized to do business in Virginia. As applicable, a line item for ongoing maintenance of the SWM Facilities shall be included in the budget(s) for any UOA/COA(s) established, and the fees collected for such purposes by the UOA /COA shall be deposited in the SWM Maintenance Account annually. The association documents that establish and control the UOA/COA shall provide that the SWM Maintenance Account shall not be eliminated as a line item in the UOA/COA budget, and that funds in the SWM Maintenance Account shall not be utilized for purposes other than to fund the maintenance of the SWM Facilities. Prior to site plan approval for the first building to be constructed on the Phase B Property, the Applicants shall make an initial contribution to the SWM Maintenance Account in an amount equal to the estimated cost for the residential units' maintenance responsibility for the first 20 years of the facilities, based on the cost data of the underground vault, as approved by DPWES. Thereafter, the SWM Maintenance Account shall be funded through pro-rata assessments of the subsequent owners as set forth in the UOA/COA documents, as applicable.

(iii) SWM Replacement Fund; Residential Buildings. Prior to site plan approval for the first building to be constructed, the Applicants shall establish an account (the "SWM Replacement Account") to be used as an escrow account for the eventual replacement of the SWM Facilities located on or serving the Phase B Property. The SWM Replacement Account shall be an interest bearing account held by a financial institution authorized to do business in Virginia. As applicable, a line item for future replacement of the SWM Facilities shall be included in the budget(s) for any UOA/COA(s) established, and the fees collected for such purposes by the UOA/COA shall be deposited in the SWM Replacement Account annually. The association documents that establish and control the UOA/COA shall provide that the SWM Replacement Account shall not be eliminated as a line item in the UOA/COA budget, and that funds in the SWM Replacement Account shall not be utilized for purposes other than to fund the replacement of the SWM Facilities. Prior to site plan approval for the first residential building, the Applicants shall make an initial contribution to the SWM Replacement Account in an amount equal to the estimated

cost for the residential units' responsibility for the first 20 years of the facilities, based on cost data of the underground vault, as approved by DPWES. Thereafter, the SWM Replacement Account shall be funded through pro-rata assessments of subsequent owners of the Phase B Development as set forth in the UOA/COA documents, as applicable.

(iv) County Agreement. The SWM Agreement shall address the following issues to the satisfaction of DPWES: (a) future replacement of the SWM Facilities, when and as warranted; (b) requirement for liability insurance in an amount reasonably acceptable to DPWES; (c) agreement by owners and successors not to petition the County to take future maintenance responsibility or replace the underground facilities; (d) Easements for County inspection and emergency maintenance to ensure that the facilities are maintained by the Applicants in good working order; and (e) establishment of procedures to facilitate County inspection.

E. Phase A Contribution. Prior to the issuance of the site plan approval for the first residential building on the Phase B Property, the Applicants shall make a contribution to the existing Phase A Condominium Associations in the amount of $120,000 to help cover the cost of future replacement of the existing underground vault on Phase A.

B-29. Geotechnical Investigation. If required by DPWES, the Applicants shall submit a geotechnical investigation of the site and implement such measures determined by the investigation, subject to the satisfaction of DPWES.

B-30. Noise Attenuation. The Applicants shall prepare a Noise Impact Analysis of the Phase B Property and shall submit this analysis to DPWES at the time of site plan submission for Buildings 3 and 4. This report shall provide an analysis of noise impacts associated with Gallows Road. Based on the findings of that report, the Applicants shall show impacted units on the site plan and shall provide the following noise attenuation measures:

A. In order to reduce interior noise to a level of approximately 45 dBA Ldn, dwelling units anticipated by the study to be impacted by traffic noise through windows and walls having levels projected to be greater than 70 dBA Ldn shall employ the following acoustical measures:

Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 45. Doors and glazing shall have a laboratory STC rating of at least 32 unless glazing constitutes more than 20% of any façade exposed to noise levels of up to 71.5 dBA Ldn. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of up to 35 as dictated by the percent of glass. All surfaces shall be sealed and caulked in accordance with methods approved by the American

Society for Testing and Materials (ASTM) to minimize sound transmission.

B. In order to reduce interior noise to a level of approximately 45 dBA Ldn, dwelling units anticipated by the study to be impacted by highway noise having levels projected to be between 65 and 70 dBA Ldn, shall be constructed with the following acoustical measures:

Exterior walls should have a laboratory sound transmission class (STC) rating of at least 39.Doors and glazing shall have a laboratory STC rating of at least 28 unless glazing constitutes more than 20% of any façade exposed to noise levels of 65 to 70 dBA Ldn. If glazing constitutes more than 20% of an exposed façade, then the glazing shall have a STC rating of up to 35 as dictated by the percent of glass. All surfaces should be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.

C. Alternative interior noise attenuation measures may be provided subject to the implementation of a refined noise study as reviewed and approved by DPWES after consultation with the Department of Planning and Zoning.

AFFORDABLE HOUSING

B-31. Affordable Dwelling Units ("ADUs"). The Applicants shall provide ADUs on the Phase B Property in accordance with Part 8 of Article 2 of the Zoning Ordinance. The number of ADUs to be provided on the Phase B Property shall be equal to 5% of all dwelling units existing on the Phase A Property and all dwelling units to be constructed on the Phase B Property, less the 12 ADUs already provided on the Phase A Property. At least ten (10) of the ADU units provided shall be designed and constructed as fully handicapped accessible units.

B-32. Workforce Dwelling Units ("WDUs"). In addition to the number of ADUs provided, the Applicants shall provide housing units on the Phase B Property that will be leased and/or sold to future residents who have a median household income of up to 120% of the Area Median Income ("AMI") for the currently defined Washington, D.C. Metropolitan Statistical Area as determined by the U.S. Department of Housing and Urban Development, which currently is $94,500 for a family of four and is subject to change annually (such units hereafter referred to as "WDUs"). The number of WDUs to be provided on the Phase B Property shall be equal to 7% of all non-ADU dwelling units to be constructed on the Phase B Property.

A. WDUs shall be provided as follows:

(i) One third of the WDUs provided shall be limited to households with an income of up to 80% of the AMI.

(ii) One third of the WDUs provided shall be limited to households with an income of up to 100% of the AMI.

(iii) One third of the WDUs provided shall be limited to households with an income of up to 120% of the AMI.

(iv) WDUs shall be marketed to employees of nearby employers (such as, but not limited to, INOVA Fairfax Hospital and Exxon Mobil); provided, however, that such marketing shall be completed on a non-discriminatory basis in conformance with the Fair Housing Act and all other applicable laws and regulations.

(v) WDUs shall have a minimum size of 450 square feet for efficiencies, 550 square feet for one-bedroom units and 750 square feet for two-bedroom units. WDUs may be provided as efficiency, one (1) or two (2) bedroom units, as determined by the Applicants in their sole discretion. The Applicants shall determine the interior amenities for each WDU provided.

B. Designation on Site Plan. Each approved site plan, record plat and building plan for the residential buildings shall designate the number of WDUs/ADUs by bedroom count and square footage and the number of non-WDU/ADU residential units to be provided. If the development of the Phase B Property is phased or developed in sections, then the approved site plan(s) for the respective phase shall also contain tabulations of the total number of WDUs/ADUs and the total number of non-WDU/ADU residential units on the Phase B Property. Whenever the calculation of the required WDUs results in a fractional unit less than 0.5, then the number shall be rounded down to the next whole number, and any fractional unit greater than 0.5 shall be rounded up to the next whole number, provided that the seven percent (7%) of the total number of Non-ADU dwelling units located on the Phase B Property are WDUs.

If there is to be any change in the location of WDUs after the original approval of a Site Plan(s), the Applicant shall be responsible for amending the approved plans and plats to reflect the designation of the alternate WDU prior to the issuance of a Residential Use Permit for the new WDU. However, in the case of a multiple family rental development that is under single ownership, the WDU units need not be specifically identified. In such rental developments, the approved site plans, record plats and building plans shall identify the development as a rental project and shall note the total number of WDU units and the number of Non-WDU units provided.

C. WDUs – Rental Rates. WDU rental rates shall be calculated utilizing the AMI income limits set forth in Proffer B-32.A and adjusting these base

figures by the following factors for different WDU sizes based on the number of bedrooms:

Number of Bedrooms	Adjustment Factor
Efficiency (0 Bedrooms)	70%
1 Bedroom	85%
2 Bedrooms	100%

The result of this calculation for each WDU shall then be divided by twelve (12), and multiplied by twenty-five percent (25%) and rounded to the nearest whole number to establish the maximum rent, excluding utilities. No additional fees may be charged to WDU lessees for use of the on-site recreational amenities.

D. WDU – Sale Prices. WDU sales prices, for both initial sales and re-sales to individual owner occupants, shall be determined either by the County Executive in accordance with Section 2-810 of the Zoning Ordinance or by a method outlined in the Workforce Housing Program to be adopted by Fairfax County, as determined by the Applicants in their sole discretion.

E. Timing and Phasing for the Provision of WDUs. WDUs provided with any given single residential building on the Phase B Property may be greater or less than 7% of the total Non-ADU units in such building; provided, however, that the total number of WDUs provided at the completion shall satisfy the 7% requirement.

F. Condominiums.

(i) If a residential building originally operated as a rental project, is subsequently converted to a condominium project, any existing WDUs shall be maintained as WDUs and sold as WDUs. The restrictions on WDUs shall be disclosed in the condominium declaration creating the condominium. Should the Applicants choose to relocate any WDUs to another rental building on the Phase B Property, the Applicants shall amend the respective approved site plans to reflect the designation of alternate WDUs.

(ii) If a residential building is sold as a condominium, either initially or as a conversion from rental use, WDUs in blocks of ten (10) or more may be purchased by a single entity and rented as WDUs with the following stipulations:

(a) The WDUs shall be rented in accordance with the rental provisions of this Proffer, including but not limited to, pricing and monthly reporting. No additional condominium

association fees shall be assessed to the tenants of the WDU units.

(b) Parking for the WDUs shall be provided in accordance with the applicable provisions of the Zoning Ordinance with at least the minimum number of required spaces retained and made available for use by the WDU tenants. If parking for residential uses in the Phase B Property is to be assigned to specific dwelling units, not less than one space shall be assigned to each WDU.

(c) The tenants of the WDUs shall have access to all the site amenities available to Non-WDU residents in the development.

G. Administration.

(i) WDUs shall be administered in a fashion similar to ADUs pursuant to the below specified provisions of Section 2-800 of the Zoning Ordinance in effect at the time of the execution of these Proffers. The following specific provisions of the Zoning Ordinance shall apply to the administration of the WDUs: Section 2-805; 2-807 Par. 1, 2.B,C,D,F; 2-810, Par. 1-5; 2-808, 2-811, Par. 1-4; 2-812

(ii) Par. 2,A,B,C,G, 3, 8, 11; 2-812(6) (only as to the recording of a covenant committing to a thirty year contract period); 2-813; 2-817; and 2-818 including the recordation of appropriate restrictive covenants in the land records of Fairfax County, except where such provisions directly conflict with these Proffers. When the provisions of Proffer B-32 conflict with any provision of the Zoning Ordinance, these Proffers shall control.

(iii) The Applicants reserve the right to enter into a separate binding written agreement with the appropriate Fairfax County agency as to the terms and conditions of the administration of the WDUs. Such an agreement shall be on terms mutually acceptable to both the Applicants and Fairfax County and may occur after the approval of this Application. Neither the Board of Supervisors nor Fairfax County shall be obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the WDUs shall be administered in accordance with such an agreement, and the administrative requirements of this Proffer shall become null and void. Such an agreement and any modifications thereto, shall be recorded in the land records of Fairfax County. In addition, if, prior to site plan approval for any of the residential buildings on the Phase B Property, alternate regulations for the administration of WDUs is adopted by the Board as Ordinance or Policy to provide specific requirements

regarding WDUs, the Applicants reserve the right, in their sole discretion, to opt into the new Policy/Zoning Ordinance provisions regarding WDUs, and the administrative requirements of this Proffer shall be null and void. In any event, if this Proffer conflicts with the administrative sections of the WDU provisions of the Zoning Ordinance, this Proffer shall control.

PUBLIC/COMMUNITY FACILITIES

B-33. Satellite Library Branch. The Applicants shall provide to Fairfax County Public Library ("FCPL") an option to lease (with an initial term of 20 years) (the "Lease") permitting a Fairfax County library to occupy 2,000 square feet on the ground floor and cellar space within Buildings 1, 2, 3 or 4 for use as a library at a location to be determined by the Applicants. This two thousand (2,000) square feet of space shall be leased to the County rent free. If the FCPL requests to lease up to an additional 14,000 square feet, the Applicant may lease this additional space to the FCPL at prevailing market rates and lease terms. The exact location of the library shall be determined solely by the Applicants in coordination with the FCPL and shall be constructed as a vanilla shell with stubbed utilities. The FCPL shall have the responsibility for completing its own betterments and improvements within the shell. The shell shall be completed and made available to the FCPL prior to the issuance of the first RUP in the building in which the library is to be located or as otherwise agreed to as part of the Lease. The form of the Lease shall be reviewed by the County Attorney and shall include commercially reasonable terms. The Applicants shall notify the FCPL in writing within 60 days of final site plan approval for the building on the Phase B Property to house the branch library and request confirmation of the FCPL's intent to lease and occupy the branch library space. The FCPL shall respond to the Applicants in writing within 60 days confirming their intent to lease and occupy the space or not to lease the space. In the event that the FCPL decides not to lease or occupy the space, then this Proffer automatically shall expire, and the Applicants thereafter shall be permitted to market and lease the library space as part of the Applicant's Secondary Uses.

B-34. County Athletic Field Contributions. In addition to the recreation facilities provided in the Residential Buildings, the Applicants also shall provide a contribution of $450,000 to the Board of Supervisors to be used for parks and/or athletic facilities and fields in the vicinity of the Property, as determined by the Providence District Supervisor in consultation with the Providence District Athletic Fields Task Force. The Applicants shall make the contribution in two (2) installments with $225,000 paid within 120 days of the approval of this rezoning and the remaining $225,000 paid prior to site plan approval for the first residential building on the Property.

B-35. Miscellaneous Contributions. Prior to site plan approval for the first residential building on the Phase B Property, the Applicants shall provide the following monetary contributions:

A. $35,000 to the Board of Supervisors for development of parks in the Merrifield area;

B. $5,000 to the Dunn Loring Volunteer Fire Department; and

C. $5,000 to the Providence District Tree Fund.

B-36. Merrifield Shuttle. In the event that a Shuttle Study, a privately-operated Merrifield Shuttle is established by others in the future, then the Applicants (or successor UOA/COA) shall participate in ongoing funding for such service provided that (i) the Merrifield. Shuttle provides reasonable and consistent peak-hour service to the Property, the Dunn Loring/Merrifield Metro Station and, if constructed, the future Merrifield Town Center, and (ii) such financial participation in the Merrifield Shuttle is proportional to the actual usage of the Shuttle by future residents/tenants/visitors and employees and to the participation of other users of the Merrifield Shuttle.

B-37. Public Schools. Per the Residential Development Criteria Implementation Motion adopted by the Board of Supervisors on September 9, 2002, and revised July, 2006, the Applicants shall contribute $11,630 per expected student (with a projected total of 73 students based on a ratio of 0.076 students per residential unit) to the Fairfax County School Board to be utilized for capital improvements to schools that any students generated by the Residential Buildings will attend. Such contribution shall be made prior to the issuance of the first RUP for each residential building and shall be based on the actual number of dwelling units built in each building.

B-38. Underground Utilities. Commensurate with construction of improvements to Gallows Road outlined in Proffer B-12, the Applicants shall place existing overhead utility lines along the Phase B Property's Gallows Road frontage underground. The Applicants shall coordinate this work with VDOT Project # 0029-029-119, which also calls for utility work along the Phase B Property frontage. However, the Applicants shall not be required to place the utilities underground prior to the time they would normally do so based on standard construction scheduling. Furthermore, upon demonstration by the Applicants that despite diligent efforts taken by the Applicants to implement this proffer, the undergrounding of utilities has been delayed, the Zoning Administrator may agree to a later date for completion of these improvements.

MISCELLANEOUS

B-39. Escalation in Contribution Amounts. Except for the amount to be contributed to the TDM Penalty Fund and School contributions, the amounts of each cash contribution set forth in these Proffers shall escalate on a yearly basis from the base year of 2007 and change effective each January 1 thereafter based on the Consumer Price Index as published by the Bureau of Labor Statistics, U.S.

Department of Labor, for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the "CPI").

B-40. Advance Density Credit. Advanced density credit is reserved consistent with the provisions of the Fairfax County Zoning Ordinance for all eligible dedications described herein or as may be required by Fairfax County or VDOT pursuant to the PFM, at the time of site plan approval for the Property.

B-41. Hours of Construction. The hours of outdoor construction activity on the Phase B Property shall be limited to between 7:00 a.m. and 9:00 p.m. Monday-Saturday, and 9:00 a.m. to 7:00 p.m. on Sundays and federal holidays; provided, however, that there shall be no outdoor construction on January 1st, July 4th, Thanksgiving Day and Christmas Day each year. The Applicants shall inform all contractors and subcontractors of the permitted hours of construction, and signs designating such construction hours shall be published in both English and Spanish and posted at all construction entrances.

B-42. Temporary 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 the Title 46.2 of the Code of Virginia shall be placed on or off-site by the Applicants, or at the Applicants' or any building's direction, to assist in the initial and future marketing, sales and/or rental of dwelling units on the Phase B Property. This same restriction shall apply to the marketing of and sales by all retail establishments located on the Phase B Property. The Applicant, any builders and any retail tenants shall direct their agents and employees involved in marketing the Phase B Property to adhere to this Proffer.

B-43. Loading Spaces. Loading for residential occupants shall be scheduled with the Phase B property management office to avoid conflicts with loading for commercial tenants.

B-44. Public Water. Water service to the Phase B Property shall be provided by the Fairfax County Water Authority (FCWA), unless the FCWA determines service from another provider is necessary or preferable.

B-45. Sanitary Sewer. At the time of submission of a site plan for any residential building, the Applicants shall provide DPWES with an analysis of the capacity of the sanitary sewer lines serving the Phase B Property. If the County determines that any sewer line serving the Phase B Property is inadequate, the Applicants shall upgrade or improve offsite sanitary sewer lines, as necessary.

B-46. 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 violates any Federal, State or other local law, then the offending portion of these Proffers shall be deemed null and void and no longer in effect. All remaining conditions of these proffers shall remain in full force and effect.

B-47. Severability. Pursuant to Section 18-204 of the Zoning Ordinance, any portion of the Property may be the subject of a proffered condition amendment ("PCA"), Special Exception ("SE"), Special Permit ("SP"), or Final Development Plan Amendment ("FDPA") without joinder and/or consent of the owners of the other portions of the Property, provided that such PCA, SE, SP or FDPA does not materially adversely affect the other phases. Previously approved zoning applications applicable to the balance of the Property that is not the subject of such a PCA, SE, SP or FDPA shall otherwise remain in full force and effect.

B-48. Successors and Assigns. These Proffers will bind and inure to the benefit of the Applicants and their successors and assigns. Each reference to "Applicants" in this proffer statement shall include within its meaning and shall be binding upon Applicants' successor(s) in interest and/or developer(s) of the site or any portion of the site.

B-49. Counterparts. These Proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

[SIGNATURES BEGIN ON THE NEXT PAGE]

CO-APPLICANT/CONTRACT GROUND LESSEE OF
TAX MAP 49-1 ((1)) 14, 15, 16

DSF/LONG METRO II, LLC

By: DSF/Dunn Loring II, LLC, its Managing Member

By: Thomas W. Mazza
Its: Authorized Officer

[SIGNATURES CONTINUE ON NEXT PAGE]

CO-APPLICANT/CONTRACT PURCHASER OF TAX MAP 49-2 ((1)) 18 AND 19

DSF/LONG METRO III LLC

By: DSF/DUNN LORING III LLC, its Managing Member

By: DSF Capital Partners III, L.P., its Managing Member

By: DSF Capital Partners III, GP LLC, its General Partner

By: Thomas W. Mazza
Its: Authorized Officer

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER/GROUND LESSOR OF TAX MAP 49-1
((16)) 14, 15, 16

MERRILEE BUSINESS CENTER I, L.P.

By: Sherlin Corporation, its General Partner

Martha E. McCue Sherlin
By: Martha E. McCue Sherlin
Its: President

Martha E. McCue Sherlin
By: Martha E. McCue Sherlin
Its: General Partner

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER OF TAX MAP 49-2 ((1)) 18

ARMSTRONG, GREEN ~~&~~ AND EMBREY, INC.

By: John F. Armstrong, III
Its: President and CEO

[SIGNATURES CONTINUE ON NEXT PAGE]

TITLE OWNER OF TAX MAP 49-2 ((10)) 19

ROSTI ENTERPRISES, L.P., L.L.P.

Richard A. Rosti

By: Richard A. Rosti, agent & attorney-in-fact for Rosti Enterprises, L.P., L.L.P.

[SIGNATURES CONTINUE ON NEXT PAGE]

UNIT OWNERS ASSOCIATION FOR ALL UNIT OWNERS FOR PROPERTY IDENTIFIED AS TAX MAP 49-1 ((29)) 1-452

HALSTEAD AT THE METRO ASSOCIATION

By: HALSTEAD AT THE METRO I LLC, Attorney-in-fact for all unit owners of the Halstead at the Metro Association

By: Thomas W. Mazza
Its: Manager

[SIGNATURES CONTINUE ON NEXT PAGE]

UNIT OWNERS ASSOCIATION FOR ALL UNIT OWNERS FOR PROPERTY IDENTIFIED AS TAX MAP 49-1 ((30)) 1-458

HALSTEAD AT THE METRO II ASSOCIATION

By: HALSTEAD AT THE METRO II LLC, Attorney-in-fact for all unit owners of the Halstead at the Metro II Association

By: Thomas W. Mazza
Its: Manager

[SIGNATURES END]