SCOTT MANAGMENT
PROFFERS
FOR THE HYBLA VALLEY PROPERTY
RZ 1998-LE-055

September 29, 2000

Pursuant to Section 15.2-2303(a) of the Code of Virginia, 1950, as amended, and Section 18-203 of the Zoning Ordinance of Fairfax County (1978 amended), the property owners and Applicant in this rezoning application proffer that the development of the parcel under consideration and shown on the Fairfax County Tax Maps as Tax Map Reference Nos. 92-4-((1))-58 and 101-2-((1))-11A (hereinafter referred to as the "Property") will be in accordance with the following conditions if, and only if, said rezoning request for the PDH-8 District is granted. In the event said application request is denied, or withdrawn, these proffers shall be null and void. The Applicant and the Owner (hereinafter collectively "Applicant"), for themselves, their successors and assigns, agree that these proffers shall be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia in accordance with applicable County and State statutory procedures. The Applicant and the Owner further agree that these proffers shall remain fully binding on the Applicant and its successors or assigns and any and all future owners of the Property.

1. Subject to the proffers and the provisions of Section 18-204 of the Zoning Ordinance, under which minor modifications to an approved development plan are permitted, the development shall be in substantial conformance with the submitted Conceptual Development Plan ("CDP") and Final Development Plan ("FDP") containing 5 sheets and prepared by Huntley, Nyce & Associates, Ltd. dated August 4, 1998 and revised through September 26, 2000.

2. The development shall consist of a maximum of 289 residential units (70 single family detached dwellings and 219 single family attached dwellings). The size, width, and location of the lots and building footprints shown on the CDP/FDP are conceptual and the Applicant reserves the right to modify the size and location of the lots and building footprints, or develop a lesser number of lots, in accordance with the requirements of Section 18-204 of the Zoning Ordinance. Single Family attached units shown on the CDP/FDP as garage units may be developed with or without garages at the discretion of the Applicant. In the event garage units are converted to non-garage units, the Applicant shall demonstrate that at minimum parking requirements are fulfilled. The number of street trees shall not be reduced, but may be relocated in order to provide additional parking if units are constructed without garages. The Applicant may reduce the total number of single family attached units as needed to meet parking requirements for additional non-garage units, provided that any such reduction shall be in substantial conformance with the CDP/FDP. Landscape typicals shown on Sheet 1 of the CDP/FDP are to be used as indicators of the proffered landscape concepts. Modification to the shape, configuration and dimensions of units, peripheral setbacks and similar features may be permitted under Section 18-204 of the Zoning Ordinance.

3. Prior to bond release, the stub of Fairchild Drive shall be addressed in one of the following manners: (1) the Applicant shall pursue the vacation of that portion of Fairchild Street which stubs into the application site on its northern property line, (2) the Applicant shall construct a permanent terminus of the street, to the satisfaction of VDOT and DPWES, or (3) other means as determined appropriate by DPWES. The provision of such a terminus shall not degrade the amount of transitional screening required along the site's northern periphery.

4. For those units whose rear yards are located parallel to the required transitional screening yards along the northern boundary of the property, the installation of rear privacy fences may be used in lieu of the barrier identified on the CDP/FDP.

5. Prior to site plan approval, the Applicant shall establish a homeowners association for the purpose of maintaining common areas and private streets within the approved development. In conjunction with the appropriate site plan review processes, private streets, common areas, open space not dedicated to the Board of Supervisors pursuant to Proffer 36 and recreation facilities shall be dedicated to the homeowners association. The Applicant shall, at the time of site plan approval, escrow funds in the amount of $5,000 to provide the Homeowners Association with a street reserve fund for the initial maintenance of the private streets.

6. The Applicant shall subject all private streets in the community to a public access easement in order to allow ingress/egress to and from both Cyrene Boulevard and Lindberg Drive through the Property, except as may be restricted by the CDP/FDP. Said easement shall be of a content and form approved by the County Attorney.

7. The Applicant shall include language in its Declaration of Covenants, Conditions and Restrictions which: (a) discloses the existence of the public access easement required by Proffer 6; (b) prohibits the conversion of garages into any primary use other than the parking of vehicles; and (c) discloses the existence of private streets throughout the community. The appropriate homeowners association documents shall specify that the homeowners association is responsible for the maintenance of the private streets and recreation facilities. The Declaration of Covenants, Conditions and Restrictions shall be in a form approved by the County Attorney.

8. The private streets on the Application Property shall be constructed with a pavement section, thickness and material which conforms with Public Facilities Manual (PFM) standards as determined by the Department of Public Works and Environmental Services (DPWES).

9. Purchasers shall be advised in writing prior to entering into a contract of sale of the existence of: (1) the public access easement through the Property; (2) the existence of private streets within the community, and that the homeowners association shall be responsible for the maintenance of all the private streets in the development; and (3) the prohibition on conversions of garages to any primary use other than parking.

10. A minimum of one (1) playground shall be provided on the application site in lieu of one (1) tot-lot as shown on the CDP/FDP. The required playground shall be designed in accordance with PFM standards and be of a size equivalent to the area of the tot lot shown on the CDP/FDP.

11. Along the site's western property line, as ultimately determined by the requirements for land dedication contained herein, metal signs shall be posted at a minimum height of six (6) feet at 300' intervals which delineate the abutting Huntley Meadows Park boundary.

12. At the time of site plan review, a minimum of one (1) seating area and/or other passive recreation areas shall be incorporated into each land bay (as defined in Proffer 13 below) of the approved residential development.

13. A consistent and/or unified architectural approach and appearance shall be employed within each land bay, as depicted on the development's composite view on Sheet 1 of the CDP/FDP. The single family detached units, which are not identified in a specific land bay, shall be considered a single land bay. The exterior façade of each approved unit shall incorporate at least three of the following design elements: (a) brick or natural appearing stone on at least 10% of the front façade;

(b) brick, stone or similar trim material; (c) hard board or cementitous siding; (d) shutters and/or similar decorative exterior window treatments; (e) decorative window styles to include, but not be limited to: Palladian type windows, French Doors or similar treatments; (f) decorative exterior lighting, hardware and accent elements; (g) incorporation of dormers on roof lines; (h) incorporation of front porches.

14. The entrance features shown on the CDP/FDP shall be predominantly faced with natural wood, brick, stone or similar material. Complimentary landscaping shall be incorporated into the design of each entrance feature.

15. In order to permit exterior maintenance, a minimum distance of six (6) feet shall be maintained between single family detached residential units and groupings of townhomes.

16. To protect against future stream bank erosion in the existing open ditch which runs generally north/south through the application property, prior to site plan approval, the Applicant shall post a bond in the amount of $25,000, which shall be held for the duration for the control period (as defined herein) to provide for potential remediation of stream bank erosion in the north/south ditch. Prior to approval of the first site plan, the Applicant shall submit a stream monitoring plan for the review and approval of DPWES and the Northern Virginia Soil and Water Conservation District (NVSWCD). This plan shall provide for the documentation of the existing location, condition, cross section and thalweg (deepest part of stream channel) of the stream with photos, topographic sectional surveys and narrative statements describing the status of the stream channel as determined necessary by DPWES and NVSWCD and shall provide details regarding monitoring efforts described below. Within the stream monitoring plan, the Applicant shall further document assumptions regarding off-site land uses and development patterns so as to provide the ability to ascertain how future and

unanticipated off-site changes might affect the flow of water in the north/south ditch. To assure survey and documentation consistency over time, concrete monuments shall be placed at or near the top of bank on both sides of selected stream survey locations. These monuments shall provide a means to connect a survey tape line across the stream between markers. Sixteen cross sections shall be established along the 1,650 foot section (herein the "monitored section") beginning at the northern property line at locations to be determined at or prior to site plan approval in locations mutually acceptable to Northern Virginia Soil and Water Conservation District (NVSWCD), DPWES and the Applicant. Said locations shall be placed in areas expected to have a potential for stream instability. Locations and cross sections shall be documented in the stream monitoring plan. Starting at the time the first storm sewer pipe conveying drainage from the site into the north/south ditch is constructed, and extending five (5) years from the completion date of the Applicant's on-site improvements (completion date herein as determined by the date of the issuance of the last Residential Use Permit "RUP") which drain into the north/south ditch (herein known as the control period), the Applicant shall implement the stream monitoring plan by monitoring the stream for potential changes in the cross section or thalweg twice a year until two years after the completion date and once a year for each year therefore, so as to confirm that within the monitored section and at the individual monitoring stations, the cross section (measured vertically from the ground surface to the tape line between the various concrete monument stations) has not changed by more than 10% and that the stream's thalweg (the deepest part of the channel) has not moved in an amount greater than three (3) feet from that which existed prior to the commencement of construction. For each required monitoring increment, a report of findings shall be forwarded to DPWES, NVSWCD, and the Environment and Development Review Branch of the Department of Planning and Zoning (DPZ).

In the event the required monitoring within the control period demonstrates that within the monitored section and at any individual monitoring station, the cross section has increased by more than 10% and that, a greater than three (3) foot movement of the stream's thalweg has occurred, the Applicant shall, if determined to be appropriate by DPWES in coordination with NVSWCD, restore the stream channel to a condition that will accommodate changes in stream hydraulics and hydrology as approved by DPWES and in coordination with NVSWCD. In the event it can be demonstrated to the satisfaction of DPWES and NVSWCD that a percentage or proportion of the erosive conditions are resulting from increases in flow of water from changed or unanticipated off-site conditions from that which existed at the time of site plan approval, the Applicant's responsibility for corrective restoration and/or stabilization measures shall be established on a pro-rata basis as determined by DPWES in coordination with NVSWCD based on a comparison of off-site versus on-site impacts. In this event, the Applicant shall provide information, for DPWES approval in coordination with NVSWCD, documenting the dollar value of restoration and/or stabilization efforts that would be needed to address that proportion of the erosive conditions that will have been caused by the Applicant's activities. As determined by DPWES, the pro-rata responsibility may take the form of: (1) a monetary contribution of the dollar value determined through the process outlined above; (2) On-site restoration and/or stabilization efforts commensurate with the erosion impacts that are attributable to the Applicant's activities; or (3) a combination of on-site restoration and/or stabilization efforts and a monetary contribution, the total of which shall be commensurate with the erosion impacts that are attributable to the Applicant's activities. If on-site corrective actions are taken, the Applicant shall ensure, to the satisfaction of DPWES in coordination with NVSWCD, that the efforts that are pursued are those that are of the highest priority. To the extent possible, as

determined by DPWES, in coordination with NVSWCD, restoration and stabilization measure shall incorporate bio-stabilization or bio-engineering processes to include, but not be limited to, stabilization, regrading, or revegetation with native species. In the event restoration and/or stabilization is required within the control period, the control period shall be extended so as to require two (2) years of additional monitoring of all cross sections within and near the stabilized and/or restored areas, as determined by DPWES and NVSWCD, after installation of the required corrective stabilization measures installed consistent with the methodology described herein.

17. For those preserved areas on either side of the north/south open ditch, the Applicant shall provide for the clearing and removal of vines and related undergrowth that threaten those trees and related vegetation deemed worthy of preservation by a certified Arborist retained by the Applicant, in consultation with the County Urban Forester. Only hand and/or hand power tools shall be used to complete this task. Prior to first site plan submission, the Applicant shall retain the services of a certified arborist to prepare a plan for removal of such vines and undergrowth. This plan shall be subject to review and approval by the County Urban Forester at the time of first site or subdivision plan submission, whichever comes first.

18. As part of the exotic vine/shrub removal plan described in Proffer 17, trees shall be planted in canopy gaps which measure greater than four-hundred (400) square feet in area after removal operations are complete, a minimum of one (1) tree per four hundred (400) square foot gap shall be planted. All planting areas shall be identified by the Applicant's Certified Arborist, and all trees to be planted should be balled and burlapped stock with a minimum caliper of two (2) to two and a half (2 1/2) inches for deciduous trees, or six (6) feet in height for evergreens. Trees suitable

for planting include oak, maple, hickory, holly or other native species as approved by the Urban Forester, DPWES.

19. The Applicant shall design the site in a manner that maintains wetland hydrology in wetlands on this site that are preserved within areas to be protected by limits of clearing and grading as shown on the Final Development Plan, recognizing that some wetlands in unprotected areas may be filled subject to applicable U.S. Army Corps of Engineers (COE) and Department of Environmental Quality (DEQ) regulations). Each subdivision and/or site plan section submitted to DPWES shall have an analysis, for the review and approval of DPWES in coordination with DPZ of the hydrology of preserved wetlands, if any, on or adjacent to the applicable plan area that demonstrates that the total volume of water flowing to said wetlands over a year of typical precipitation is substantially the same (±10%) in pre and post-development conditions. This analysis shall further document whether ground water is a significant source of water for the wetland areas being analyzed. Said analysis shall be performed and certified by an experienced wetlands professional who is a Professional Engineer licensed in the Commonwealth of Virginia and a Professional Wetlands Scientist certified by the Society of Wetlands Scientists, as may be acceptable to DPWES.

20. The Applicant shall remove garbage and construction debris from the site, including all areas to be protected by limits of clearing and grading shown on the Final Development Plan. Any such removal shall be conducted in a manner that minimizes any disruption of existing vegetation, subject to the approval of the Urban Forestry Division. At the first site/subdivision plan submittal, whichever comes first, the applicant shall include a narrative in the landscape/tree preservation plan to be reviewed and approved by the Urban Forestry Division, which details the methods to be used

for removal of debris. All debris removal operations shall be supervised by the Applicant's certified arborist to ensure minimal disturbance of trees and other vegetation.

21. Prior to the issuance of the first Residential Use Permit on the property, and as determined by DPWES in coordination with the Northern Virginia Soil and Water Conservation District, the Applicant shall remove any existing obstructions from the southern portion of the north/south ditch (downstream of the monitored section identified in proffer 16). Removal of such obstructions shall be accomplished in the least disruptive manner possible, subject to the approval of the Urban Forestry Division. Removal of any obstructions that require clearing and the use of heavy equipment shall be shown on the site plan with limits of clearing for access clearly demarcated with standard orange tree protection fence. Smaller obstructions shall be removed by hand or pulling with the equipment located outside the buffer area, such efforts need not be identified on the site plan. During obstruction removal, the Applicant's Certified Arborist shall be present to monitor and ensure that any tree cover within the stream buffer is not damaged or destroyed during these operations. The Urban Forestry Division shall be notified at least twenty four (24) hours in advance of any obstruction removal activity and shall be afforded the opportunity to be present when such activities are pursued. Any clearing of paths or removal of trees within the area shown on the CDP/FDP to be preserved shall be reforested as specified in the PFM or as otherwise approved by the Urban Forestry Division.

22. Outfall locations are conceptual. At the time of site plan review and approval, the final location and direction of the outfall devices shall be designed to minimize the potential for stream channel erosion as determined by DPWES in coordination with the Northern Virginia Soil and Water Conservation District through the use of technologies to include but not be limited to lengthening the outfall pipe or strategically orienting its angle of entry.

23. At the time of site plan submission, an updated soils and geotechnical analysis shall be submitted which provides and confirms final design and construction methods based on the final site design. The outcome of such analysis shall be implemented as required by DPWES and the Geotechnical Review Board. Upon conveyance of each dwelling unit, the Applicant shall provide to initial purchasers a ten (10) year warranty against foundation defects from a licensed insurer. Such initial warranty shall be transferable by the initial purchaser to subsequent purchasers. Prior to the issuance of a residential use permit (RUP) for any unit evidence of the satisfaction of the warranty requirement shall be provided to DPWES.

24. In order to insure that the updated soils and geotechnical analysis required by this proffer is responsive to documented and anticipated soils conditions, the development of the property shall be subject to review and approval by the Geotechnical Review Board and, if determined appropriate by the Geotechnical Review Board and/or DPWES upon receipt and review of final soils and geotechnical analysis, measures including, but not limited to, the following shall be implemented.

(a) For any area of the site containing uncontrolled fill in the event fill depths are three feet or less below design slab or foundation subgrades, affected soils shall be proof-rolled and confirmed as suitable by the Fairfax County Geotechnical Review Board, or in the alternative, be addressed by undercut and replacement with structural fill or other means approved by DPWES and/or the Geotechnical Review Board.

(b) If deeper uncontrolled fills (exceed three feet below design slab or designed foundation subgrade) or soft natural soils remain at the site in any structural area, roadway, utility alignment or building, such conditions shall be addressed

by either undercut and replacement with structural fill, pile or pier foundations, or other means of improvements in a manner approved by DPWES and/or the Geotechnical Review Board.

(c) In the event final soils and geotechnical review identifies soft materials in the area occupied by structures, roads, or utilities, which, in the opinion of the Geotechnical Review Board would cause excessive settlement of existing natural soils or fills, particularly differential settlements of utilities and buildings, such conditions shall be addressed by engineering methods described in the geotechnical engineers final analysis and approved by the Geotechnical Review Board.

(d) For any unit proposing to include basement space, it shall be demonstrated to the satisfaction of the Geotechnical Review Board and/or DPWES that the proposed basement is compatible with ground water and perched water conditions. Any proposed basements located within Type B soils shall be further subject to damp proofing or water proofing requirements on a unit by unit basis in accordance with detail provided by the geotechnical engineer and reviewed and approved by the Geotechnical Review Board and/or DPWES.

In the course of its review of the final soils and geotechnical analysis, the Geotechnical Review Board and/or DPWES may require these or other construction methods deemed necessary to reasonably provide site or foundation stability within the required ten (10) year warranty period prescribed by Proffer 23 above.

25. The Applicant and on-site contractors and consultants shall remain observant for subsurface debris, abandoned underground storage tanks, and/or other conditions which suggest contamination of soils in the work area (e.g., discolored soils, chemical odors) throughout all phases of the site development. Should observations reveal the presence of subsurface debris that is not clearly inert, abandoned underground storage tanks, and/or the potential for contaminated soils, all earthwork and construction activities within the affected area shall cease immediately and shall not resume until the Applicant demonstrates, to the satisfaction of DPWES in coordination with the Fire and Rescue Department and Department of Health, that continuation of construction will not result in any short or long term adverse health or environmental impacts. Written information on this matter shall be provided to all construction crews and field workers.

26. Stormwater management/BMPs shall be provided for the property in accordance with Best Management Practice ("BMP") standards in accordance with Fairfax County requirements or as otherwise may be approved by DPWES. If a structural pond is required it shall be designed as a BMP facility. In order to restore a natural appearance to any required stormwater management pond, a landscape plan shall be submitted as part of the first submission of the site plan showing extensive landscaping with native species in possible planting areas of the pond in keeping with the planting policies of DPWES.

27. The discharge process for the swimming pool, if any, shall conform with the following guidelines:

(a) All waste water resulting from the cleaning and draining of the pool shall meet the appropriate level of water quality prior to discharge. The Applicant shall follow procedures established to ensure that pool water is properly neutralized

prior to being discharged during draining or cleaning operations. The recommended method involves adding sufficient amounts of lime or soda ash to the acid cleaning solution to achieve a pH approximately equal to that of the receiving stream. Virginia water quality standards require pH discharges into most receiving waters to fall between 6.0 and 9.0. In addition, the standard for dissolved oxygen shall be attained prior to the release of pool water. This requires a minimum concentration of 4.0 milligrams per liter.

(b) If the water being discharged from the pool is disclosed or contains a high level of suspended solids that could affect the clarity of the receiving stream, it will be allowed to stand so that most of the solids settle out prior to being discharged.

(c) In order to ensure that high levels of chlorine are not discharged into the surface water system, pool water shall not be chlorinated prior to backwashing and/or discharge.

28. All private lots shall be located outside the limits of the final boundaries of the flood plain areas as approved by DPWES. In the event the final approved flood plain areas necessitates a smaller developed area of the property, the lots may be reconfigured or reduced in number in connection with the subdivision/site plan review process, provided that any such revision shall be in substantial conformance with that shown on the CDP/FDP. In the event it is determined by DPZ that any such revision is not in substantial conformance with the approved CDP/FDP a proffer condition amendment application or final development plan amendment application shall be required. In the event the final approved flood plain limits are different from that shown on the CDP/FDP the

corresponding limits of clearing and grading on the CDP/FDP shall be adjusted accordingly to ensure that all private lots are located outside the approved flood plain area.

29. Landscaping shall be provided in substantial conformance with the quality and quantity of plantings identified in the landscaping concepts shown on the CDP/FDP. Trees identified on the CDP/FDP as large deciduous trees shall have a minimum caliper of 2 1/2 inches and large evergreen trees shall have a minimum planted height of six (6) feet. The specific type, number and placement of plantings and landscaping shall be determined at the time of site plan approval, subject to review and approval of a landscape plan by the Urban Forester, DPWES, submitted with the first site plan submission. Landscaping shown on the CDP/FDP may only be removed when such removal is determined by DPWES, in coordination with the Urban Forestry Division, to be necessary in order to locate necessary utility lines, trails, parking areas, etc. If any such landscaping is removed, then one or more areas of additional landscaping of equivalent value, as determined by Urban Forester, DPWES, shall be substituted at one or more alternate locations on the site. A minimum of twenty five (25') feet of transitional screening shall be maintained along the northern periphery of the site. Within the area to be protected by the limits of clearing shown on the CDP/FDP, there shall be no clearing or grading with the exception of that required to install trails, utility lines, storm sewer outfalls/pipes as determined to be necessary by DPWES, or roads shown on the CDP/FDP. Any clearing or grading required for these facilities shall be done in the least disruptive, but practical, manner possible, as determined by DPWES in coordination with the Urban Forestry Division. To the extent feasible, as determined by the Urban Forestry Division, such areas shall be replanted with native species of trees, consistent with PFM guidelines for replanting, or through an alternative approach approved by the Urban Forestry Division.

30. Subject to the approval of the Urban Forestry Division and/or DPWES, the Applicant shall perform the following measures relating to tree preservation in areas outside the identified limits of clearing and grading on the property:

(a) For the purposes of maximizing the preservation of trees in common areas and on individual lots, the Applicant shall prepare a tree preservation plan which shall include three items: (1) a tree survey; (2) a tree condition analysis as discussed in paragraph (b) below; and (3) a description of prescribed treatments to be performed prior to initial clearing and grading through the time of final bond release to ensure long term tree preservation. Treatments may include, but not be limited to, pre-construction root pruning and crown pruning, crown cleaning, vertical and horizontal mulching and protective fencing. The tree preservation plan shall be submitted to the Urban Forestry Division of DPWES for review and approval as part of the first site plan submission

(b) The tree preservation plan shall include a tree condition analysis, prepared by an arborist certified by the International Society of Arboriculture, for all existing specimen trees and all trees 12 inches in diameter and larger whose trunks lay within 20 feet of either side of the western boundary of the property limits of clearing and grading as depicted on the CDP/FDP. The certified arborist shall conduct the condition analysis, using the method described in the "Guide for Plant Appraisal," eighth edition, published by the International

Society of Arboriculture. This information shall be provided as part of the tree preservation plan.

(c) After completion of the condition analysis, the certified arborist shall consult with the Applicant's design engineer to determine the final limits of clearing in a way that maximizes opportunities for tree preservation. The final placement of all utilities including public and private utilities, shall be considered at this time.

(d) All trees shown to be preserved on the tree preservation plan shall be protected by a tree protection fence, silt fence or diversion dikes. Tree protection fencing consisting of a four (4) foot high, orange plastic fence, which is attached to six (6) foot high steel posts that are driven eighteen (18) inches into the ground and placed no further than six (6) feet apart, and shall be erected at the limits of clearing and grading, and shall be shown on the Phase I and II Erosion and Sediment Control Sheets of the site plan which represent all tree shave areas identified on the CDP/FDP. The tree protection fencing shall be made clearly visible to all construction personnel. Prior to the commencement of any clearing, grading, or demolition activities, the project's Certified Arborist shall verify, in writing, that the tree protection fence has been properly installed. In addition, the certified arborist shall monitor the construction work and tree preservation efforts in order to ensure that the commitments made, through the submission and approval of the tree preservation plan, are fulfilled.

31. The Applicant shall provide Affordable Dwelling Units (ADUs) in accordance with the requirements of Article 2 of the Zoning Ordinance. In the event that, prior to issuance of a building permit for approval of units in any section of the approved development, the Board of Supervisors amends the current Zoning Ordinance requirements for fulfilling affordable housing objectives, the Applicant reserves the right to comply with the Ordinance requirements in effect at that time.

In the event the requirements of the ADU Ordinance change in a way that requires fewer ADU units, units currently allocated to the ADU program may be converted to market rate units if in substantial conformance with the CDP/FDP. If in substantial conformance with the CDP/FDP, such conversion shall not require a PCA amendment application.

32. All homes on the property shall meet the thermal guidelines of the Virginia Power Energy Saver Program for energy-efficient homes, or its equivalent as determined by DPWES, for either gas or electric energy systems as may be applicable.

33. At the time of subdivision plan review, the Applicant shall demonstrate that the proposed on-site recreational amenities generally shown on the CDP/FDP have a value equivalent to $955.00 per market rate dwelling unit as required by Article 6 of the Zoning Ordinance. In the event it is determined that the proposed facilities do not have sufficient value, the Applicant shall have the option to: (1) provide additional on-site recreational amenities within open space areas shown on the CDP/FDP, if it is determined that the location of such would be in substantial conformance with the FDP; or (2) contribute necessary funds to the Fairfax County Park Authority for off-site recreational purposes in locations within Lee District that can reasonably be expected to serve the future residents of the approved development, in accordance with Section 16-404 of the Ordinance.

The Applicant reserves the right, at subdivision/site plan review to replace the swimming pool shown on the CDP/FDP with alternative recreational facilities to include, but not be limited to, a gymnasium, tennis courts or health and/or fitness center.

34. At the time of approval of the first site or subdivision plan for the property, the Applicant shall escrow funds in the amount of $20,000.00 to be used in consultation with the Lee District Supervisor for: (1) re-timing of the traffic signals located at: Fordson Road and Lockheed Boulevard; Route 1 and Boswell Road; and Route 1 and Lockheed Boulevard; or (2) restriping or making improvements to include, but not be limited to, traffic signals at these three intersections, or improvements to other streets and intersections that serve the application property.

35. At the time of approval of the first site or subdivision plan for the Property, the Applicant shall escrow funds in the amount of $20,000.00 to be used toward the future construction, by others, of road or streetscape improvements in the Route 1 corridor. In the alternative, in lieu of this requirement to escrow funds, subject to approval by DPWES and VDOT, the Applicant may fulfill the requirements of this proffer by making improvements to Cyrene Boulevard, to include, but not be limited to traffic calming devices. The value of any such improvement shall be a credit against the amount required to be escrowed, as determined by DPWES.

36. At the time of approval of the subdivision plan for the single family detached units, the Applicant shall dedicate to the Board of Supervisors, at no cost and in fee simple, those open space areas adjacent to Huntley Meadows Park as generally described on the CDP/FDP. Prior to the actual dedication, the Applicant reserves the right to install any public utilities within the dedicated area in accordance with the requirements of these proffers, to include the requirements for utility installations described in Proffer 29. The Applicant shall be entitled to density credit in accordance

with Article 2 of the Zoning Ordinance. In the event the Board of Supervisors or its agents decline to accept all or a portion of this dedication of land. Any remaining areas shall be conveyed to the future homeowners association and preserved in accordance with the requirements of the proffers.

37. At the time of final subdivision/site plan approval, the amount of all escrowed funds or monetary contributions required by these proffers shall be adjusted upward or downward to account for any changes to the Construction Cost Index published in the Engineering News Record that have occurred subsequent to the date of rezoning approval.

38. Concurrent with the site plan review process, the Applicant shall request approval from the appropriate governmental authorities to construct a temporary crossing of the north/south stream to allow construction access to the western areas of the site. If approval for the temporary crossing is granted, no construction traffic shall access the site from Lindburgh Drive. Absent the approval of temporary crossing described herein, construction access shall be designed and located in a manner that is as least disruptive as possible to the abutting established residential uses and in accordance with the requirements of DPWES.

39. At the time of approval of the first site or subdivision plan for development which shows direct permanent access to Lindburgh Drive, the Applicant shall escrow funds with Fairfax County in the total amount of $20,000 to be used toward the future construction by others in consultation with the Hybla Valley Homeowners Association, including, but not limited to, VDOT or Fairfax County, of traffic calming devices, or contributions toward stop signs or similar traffic control devices on the following streets and/or their intersections: Convair Drive, Beechcraft Drive, Fairchild Drive, Northrup Road. Any funds not used within five (5) years of the issuance of the Final Residential Use Permit for the approved development shall be returned to the Applicant.

Applicant's collective responsibility for funding such remediation for any or all of the 12 Owners shall not exceed the total sum of $25,000. If within the Two-Year Period any of the 12 Owners reasonably believe the Applicant's construction activity has caused leaks or changes in the dampness of their basement areas, the Applicant shall be given written notice of the concern. Within 30 days of receiving such notice, the Applicant and the property owner shall mutually agree on the selection of an independent professional engineer (herein the "Independent Engineer"). Once selected, the Independent Engineer shall inspect the basement and exterior areas of the dwelling to determine if the Applicant's construction activity has changed surface or subterranean water flows and in turn caused leaks or changes in the dampness of the basement from those conditions reflected in the pre-construction inspection. In the event the Independent Engineer determines that the Applicant's construction activity is the proximate cause of the adverse change in the condition of the basement area, the Independent Engineer shall provide recommendations for correcting or mitigating the problem in accordance with the recommendations published by the American Society of Home Inspectors or similar industry standards. These recommendations shall be implemented by the Applicant in a commercially reasonable timeframe using engineers and other professionals paid for by the Applicant, but only to the maximum extent of a total of $25,000.00. Both the Applicant and the 12 Owners shall agree to be bound by the recommendations of the Independent Engineer for the purpose of enforcing this proffer.

40. To provide a means to mitigate against the possible effects of changes to surface or subterranean water flows resulting from the Applicant's construction activity, the Applicant shall undertake the following efforts for the benefit of those property owners identified as owning lots at 3401, 3403, 3407, 3409, 3411, 3415, 3417, 3419, 3421, 3423 and 3425 Beechcraft Drive and 7500 Lindburg Drive (herein the "12 Owners") and their successors and assigns.

a. Prior to any construction activity along the northern boundary of the property and adjacent to the 12 Owners, the Applicant shall provide each of the 12 Owners with a written offer for a pre-construction inspection of the basement areas of their individual homes to check for dampness or wet conditions. This pre-construction inspection shall be performed by a professional engineer paid for by the Applicant to document the pre-construction conditions. The results of these pre-construction inspections shall be maintained by the Applicant with a copy to the individual homeowner. A failure of any property owner to grant the Applicant permission to perform a pre-construction inspection shall constitute a waiver of any right to the benefits associated with this proffer.

b. If within the two-year period following the issuance of the final Residential Use Permit for units along the northern boundary of the site and adjacent to the homes owned or occupied by the 12 Owners, (herein the "Two Year Period") it is demonstrated that the Applicant's construction activity has changed subterranean and surface water flows in a way that is a direct and proximate cause of leaks or changes in the dampness of the basement areas of the 12 Owners homes, the property owner shall be entitled to corrective remediation as described herein. The

c. Any claims for remediation made pursuant to this proffer shall be handled in the order that the written notices were received by the Applicant in accordance with item (b) above. Upon demonstration that the remediation recommended by the Independent Engineer and implemented by the Applicant for any, all or a portion of the 12 adjacent lots meets or exceeds the sum of $25,000.00, the Applicant shall have no further obligation under this proffer.

41. At the time site or subdivision plan approval of the final phase of the approved development, the Applicant shall contribute the total sum of $10,000 to the Fairfax County Park Authority to develop additional active recreation facilities at County-owned parks that serve the subject property. At the time of site or subdivision plan review, the Applicant reserves the right to increase this contribution to the sum of $25,000 in lieu of constructing one of the two (2) tot lots identified on the CDP/FDP.

42. All signs, including temporary marketing signs, shall comply with the relevant provisions of the Fairfax County Zoning Ordinance.

43. All open space outside the developed area of the property not conveyed to the Fairfax County Park Authority pursuant to these proffers and not shown on the CDP/FDP to be developed as an active or passive recreation area shall be protected by a Conservation Easement in a form approved by the County Attorney's Office. This Conservation Easement shall not preclude the installation of landscaping shown on the CDP/FDP and shall permit the installation of utilities where reasonably necessary. The configuration of the Conservation Easement shall not supercede the

obligations in any other proffered commitment, including, but not limited to, the requirements for stream monitoring in Proffer 16.

Title Owner:

HYBLA VALLEY PROPERTY, L.L.C.

By: _____
Name: William F. Banks
Its: Manager

Title Owner:

HYBLA VALLEY PROPERTY, L.L.C.

By: _____
Name: Elliott L. Burka
Its: Manager

Title Owner:

HYBLA VALLEY PROPERTY, L.L.C.

By: _____

Name: Edward R. Burka

Its: Manager

SIGNATURE PAGE TO: SCOTT MANAGEMENT PROFFERS FOR THE HYBLA VALLEY PROPERTY RZ 1998-LE-055 SEPTEMBER 29, 2000

Title Owner:

HYBLA VALLEY PROPERTY, L.L.C.

By: _____

Name: Lewis P. Orr, Jr.

Its: Manager

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