September 18, 2017

Elizabeth D. Baker
Walsh, Colucci, Lubeley & Walsh, PC
2200 Clarendon Boulevard, Suite 1300
Arlington, VA 22201

Re: RZ 2011-HM-013 – CARS-DBI, LLC
RZ 2011-HM-027 – 1587 SPRINGHILL HOLDINGS, INC.
Hunter Mill District

Dear Ms. Baker:

At its September 14, 2017 meeting, the Planning Commission voted 10-0 (Commissioners Keys-Gamarra and Sargeant were absent from the public hearing) to RECOMMEND APPROVAL of RZ 2011-HM-013 and the associated conceptual development plan, subject to the proffers dated August 25, 2017, as attached. A copy of the verbatim transcript is attached.

Concurrently, the Planning Commission voted 10-0 (Commissioners Keys-Gamarra and Sargeant were absent from the public hearing) to RECOMMEND APPROVAL of RZ 2011-HM-027 and the associated conceptual development plan, subject to the proffers dated August 25, 2017, as attached. A copy of the verbatim transcript is also attached.

This letter serves as a record of the Planning Commission’s recommendation to the Board of Supervisors and not as the final approval. The application is still subject to final decision by the Board of Supervisors.

Sincerely,

John W. Cooper
Clerk
Fairfax County Planning Commission

Attachments (a/s)

cc: Catherine Hudgins, Supervisor, Hunter Mill District
Frank A. de la Fe, Planning Commissioner, Hunter Mill District
Catherine A. Chianese, Assistant County Executive, Clerk to the Board of Supervisors, County Executive Office
Bob Katai, Staff Coordinator, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ)
Robert Harrison, ZED, DPZ
September 14, 2017 date file

To request special accommodations, call the Planning Commission office at 703-324-2865, TTY 703-324-7951. Please allow seven working days to make the appropriate arrangements.
County of Fairfax, Virginia  
Planning Commission Meeting  
September 14, 2017  
Verbatim Excerpt

RZ 2011-HM-013 — CARS-DBI, LLC — Appl. to rezone from C-7, R-1, HC and SC to PTC, HC and SC to permit mixed use development with an overall Floor Area Ratio (FAR) of 3.92 and approval of the conceptual development plan. Located on the S. side of Leesburg Pike, approx. 100 ft. E. of its intersection with Spring Hill Rd. on approx. 12.28 ac. of land. Comp. Plan Rec: Transit Station Mixed Use and Park/Open Space. Tax Map 29-3 ((1)) 3B and 5 (pt). (Hunter Mill District)

RZ 2011-HM-027 — 1587 SPRINGHILL HOLDINGS, INC. — Appl. to rezone from C-7, HC and SC to PTC, HC and SC to permit mixed use development with an overall Floor Area Ratio (FAR) of 7.13 and approval of the conceptual development plan. Located on the E. side of Spring Hill Rd., S. of its intersection with Leesburg Pike on approx. 4.39 ac. of land. Comp. Plan Rec: Transit Station Mixed Use. Map 29-3 ((1)) 2G. (Hunter Mill District)

After close of the Public Hearing

Commissioner de la Fe: Thank you, Mr. Chairman. Mr. Chairman, under normal circumstances, I would move to defer this application. However, as I listened to the commentary — you know, the folks that have spoken, almost everything revolves around Boone Boulevard and its location, its width, that was the issue at the Hunter Mill Land Use Committee. They — one of their — you know, their condition for approval was that Boone Boulevard be made narrower and as Ms. Dorlester just said there are a lot of pieces here and if you move one, others are affected. And, looking at this overall, what the benefits of these applications with the dedication of the land for the power station, the field, other park improvements, the contribution for additional park improvements, and the fact that this has a Board date before we meet again, I would like to go ahead and move on this tonight. I know that that may be — usually when, you know — I don’t think we can solve the issue of the width of Boone Boulevard between now and the next we meet. And, I don’t think we can solve the issue of the RPA intrusion to the satisfaction of anyone because that relates to the location and width of Boone Boulevard and it has been stated we have been looking a Boone Boulevard over and over again. And I think that the proffer that the applicant are making regarding the striping, so that it can be at least a adjusted in the future as needed, would be better. As I sit here and think about it, I have to look at the benefits verses the negatives and after looking at this for almost, I would say almost eleven years, overall looking at Tysons and looking at the old house that — where the stream begins, it — it — I really think that it’s time to take the step now because I don’t think we can solve the issues that have been raised because they relate to the width of Boone Boulevard and that — has — you know, it has just, I think it has been moved as much as it can be. To take it out of the stream valley itself, we did adjust it, we minimized the — this is over the years, not in this application and — so from my prospective, I think the benefits overall to the citizens of Fairfax County of these applications generally are more than the negatives. So, with that Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2011-HM-013 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN SUBJECT TO THE PROFFERS DATED AUGUST 25, 2017 AND ATTACHED AS APPENDIX 1 OF THE STAFF REPORT.

Commissioner Hart: Second.
Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2011-HM-013 and its conceptual development plans, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner de la Fe: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2011-HM-027 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLANS, SUBJECT TO THE PROFFERS DATED AUGUST 25TH, 2017 AND ATTACHED AS APPENDIX 2 OF THE STAFF REPORT.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2011-HM-027, say aye?

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner de la Fe: And finally, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE MODIFICATIONS AND WAIVERS AS LISTED IN THE HANDOUT DATED SEPTEMBER 14TH, 2017, WHICH YOU RECEIVED TODAY AND WHICH WILL BE MADE PART OF THE RECORD OF THESE CASES.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion? All those in favor of the motion that was just articulated by Mr. de la Fe, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner de la Fe: Thank you very much and I was going to say — you will — to the citizens that came, this — the Board date for this is September 26th, 2017 is when they will have their hearing and that’s one of the reasons I have to move tonight because I don’t think we were going to solve the issue of the width of Boone Boulevard before then. Thank you very much.

Chairman Murphy: Thank you.

The motion carried by a vote of 10-0. Commissioners Keys-Gamarra and Sargeant were absent from the public hearing.

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PROFFERS
CARS-DB1, L.L.C. – East Land Bay
RZ 2011-HM-013

August 25, 2017

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 owner/applicant, for itself and its successors and/or assigns (hereinafter referred to as the “Applicant”), hereby proffers that the development of the parcels under consideration with RZ 2011-HM-013 and shown on Fairfax County 2017 Tax Maps as 29-3 ((1)) 3B and a portion of 5 (collectively referred to as the “Property”) shall be in accordance with the following conditions if, and only if, rezoning application 2011-HM-013 (the “Rezoning”) is granted.

The Property is referred to as “Dominion Square”. The property subject to RZ 2011-HM-012 is referenced as the West Land Bay and property subject to RZ 2011-HM-013 is referenced as the East Land Bay.

GENERAL

1. **Conceptual Development Plan.** The Property shall be developed in substantial conformance with the Dominion Square Conceptual Development Plan (“CDP”) dated January 28, 2010 and revised through July 21, 2017, prepared by VIKA, Incorporated, WDG Architecture, PLLC, and LandDesign Inc. exclusive of those sheets identified as "S" sheets and as may be further modified by these Proffers.

2. **Proffered CDP Elements.** It shall be understood that the proffered elements of the CDP are limited to the grid of streets, general location of the points of access, general location of the buildings, general mix of uses, minimum and maximum overall gross floor area ("GFA"), minimum and maximum building heights, build-to-lines, amount, general location and general character of urban park land, and general quality and character of the streetscape (the "Proffered Elements"). Other elements of the CDP may be adjusted or modified with approval of future Final Development Plans (“FDPs”) in accordance with the provisions set forth in Sect. 16-402 of the Fairfax County Zoning Ordinance (the “Zoning Ordinance”).

3. **Minor Modifications.** Minor modifications to the Proffered Elements of the CDP may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the CDP without requiring approval of a Conceptual Development Plan Amendment ("CDPA") provided such changes are in substantial conformance with the CDP as determined by the Zoning Administrator. Building envelopes and the number of units, rooms, floors and square footage within and among buildings may be adjusted as set forth on the CDP and in these Proffers, as long as (i.) the building setbacks from the property lines as shown on the CDP are maintained; (ii.) the overall minimum and maximum number of residential units and the minimum...
and maximum building heights comply with those shown on the CDP; and (iii.) the redevelopment otherwise is in substantial conformance with the CDP and these Proffers.

4. **Declarations/Owners Associations.** The Applicant shall cause the recordation of an umbrella owners association ("UOA") or the equivalent for the Property, or at the Applicant’s discretion, one UOA for the combination of the Property and the properties subject to RZ 2011-HM-012 and/or RZ 2011-HM-027. The UOA or equivalent shall be in the form of one or more reciprocal easement and/or joint maintenance and/or joint development agreements, and other governance documents as necessary (collectively referred to as "UOA or equivalent") to provide for the implementation and administration of the Obligations. Such governance documents shall be submitted to the Office of the County Attorney prior to the issuance of the first UOA or Non-RUP for the second building to be constructed in each land bay to ensure they provide for the various proffers and maintenance obligations not otherwise covered by separate agreement with Fairfax County (the "County") and/or the Virginia Department of Transportation ("VDOT"). However, a UOA or the equivalent shall not be required for the expansion of existing uses or the establishment of interim uses as described in Proffer 6. Said UOAs or equivalents may be expanded to include other nearby properties.

**PROPOSED DEVELOPMENT**

5. **Proposed Development.** The maximum gross floor area ("GFA") permitted on the Property is 2,045,000 square feet.

The Proposed Development will ultimately replace the Existing Development as defined in Proffer 6. Development of the Property may include any use permitted in the Planned Tysons Corner Urban ("PTC") District, subject to limitations in Section 6-505 of the Ordinance, the development tabulations on Sheet C-03 of the CDP (the "Development Tabulations") and these Proffers. The retail category provided in the development tabulations may include any non-residential use permitted in the PTC District (exclusive of hotel and office uses), subject to the Use Limitations in Section 6-505, or uses accessory to the primary use. The GFA allocated to the retail category in each building as shown in the Development Tabulations may be shifted between buildings within a land bay, and the overall GFA allocated to the retail category may increase up to a maximum of ten percent (10%) of the total GFA within the Property without the need for a PCA or CDPA. Any increase in the GFA allocated to the retail category shall result in a commensurate decrease in the GFA allocated to office, hotel and/or residential uses. The general location of all retail uses shall be provided with the submission of each FDP.

Uses allowed by special exception or special permit in the PTC District may be authorized through a separate special exception or special permit process without the need for a Proffered Condition Amendment ("PCA") or CDPA, provided the use is in general conformance with the approved CDP.
6. **Existing and Interim Development.**

A. **Existing Development.** The Property is developed with existing structures which contain approximately 60,000 gross square feet and associated surface parking/storage lots (collectively, the "Existing Development"). The Existing Development includes vehicle sale, rental and ancillary service establishments and vehicle storage as approved under Special Exceptions SEA 77-C-216.

(i) **Existing Conditions Plans.** The Existing Development is shown on Sheets C-05 through C-06 of the CDP (the "Existing Conditions Plans"). The Applicant may secure site plan approvals, building permits, and Non-RUPs for the development shown on the Existing Conditions Plans without triggering the need for a FDP. In the event that only a portion of the Property is redeveloped subject to an approved FDP and site plan, the Existing Development in those portions of the Property not subject to the FDP may continue in operation as shown on the Existing Conditions Plans.

(ii) **Uses.**

a. Vehicle sales, rental and ancillary service establishments shall continue to be permitted in the Existing Development (and, as waived by the Board of Supervisors in conjunction with this Rezoning, the use limitations contained in Paragraph 14 of Section 6-505 of the Zoning Ordinance as of the date of the approval of this Rezoning with regard to vehicle sale, rental and ancillary service establishments shall not apply), subject to the following conditions:

1) Landscaping shall be provided and maintained as shown on the Existing Conditions Plans and tree maintenance activities to improve the condition and maximize the survivability of trees shall be provided.

2) On-site illumination shall comply with Article 14 of the Zoning Ordinance.

3) No vehicles shall be parked, stored or displayed on any portion of the Property that is shown as open space or landscaping on the Existing Conditions Plans and no vehicle shall be stored or displayed in a manner that would impede the flow of traffic on-site. The number of parking, storage and vehicle display spaces shall not increase from that shown on the Existing Conditions Plans.

4) The loading and unloading of vehicles from transport carriers shall occur on-site.
5) Vehicles utilizing the service areas shall not stack onto adjacent public roads.

6) All dumpsters shall be completely enclosed as approved by the Department of Land Services (“LDS”).

7) Wheel stops or curbing shall be installed at all parking spaces adjacent to landscaped areas to prevent vehicles from parking in landscaped areas.

b. Any other use permitted in the PTC District shall also be permitted as an interim use in the Existing Development, subject to the use limitations of Section 6-505; provided however retail establishments-large, residential uses and hotel uses shall not be permitted.

(iii) **Parking.** Privately owned and operated commercial off-street parking and commuter parking, at rates determined by the Applicant, shall be permitted as an interim use within existing parking areas on the Property without PCA/CDPA/FDP/FDPA approval, provided any such parking adjacent to Leesburg Pike is screened with landscaping. At the time of site plan approval for commercial off-street parking and commuter parking in existing surface lots, the Applicant shall provide to VDOT and FCDOT, for review and approval, an operational traffic analysis (“Operational Analysis”) of points of access to the parking site. Such Operational Analyses shall be limited to an assessment of those driveways and/or turn lanes serving the particular parking site.

(iv) **Minor Modifications.** The Applicant may make minor modifications deemed to be in substantial conformance with the Existing Conditions Plans without the need for a CDPA or FDP.

B. **Additions and Modifications to Existing Development.** Additions or modifications to the Existing Development beyond those deemed minor shall be permitted with the approval of a FDP without requiring approval of a PCA and CDPA, subject to the following conditions:

(i) Such additions and modifications are located within the building envelopes shown on Sheet S-4 of the CDP and do not enlarge the existing building GFA by more than 25 percent.

(ii) Additions and modifications to existing structures do not result in an FAR exceeding 0.30 on the Property, less any area that has been redeveloped per the ultimate CDP.

(iii) Uses.
a. Vehicle sale, rental and ancillary service establishments existing at the time of this Rezoning ("Existing VSREs") shall be permitted on the Property as a continued interim use with additions and modifications to the Existing Development permitted as stated in Paragraphs B (i) and (ii) above. As waived by the Board of Supervisors in conjunction with this Rezoning, the use limitations contained in Paragraph 14 of Section 6-505 as of the date of the approval of this Rezoning with regard to vehicle sale, rental and ancillary service establishments shall not apply to Existing VSREs, provided the areas of outdoor display and outdoor storage of vehicles on the Property associated with Existing VSREs are incrementally reduced by such additions or modifications over that shown on the Existing Conditions Plans and the Existing VSREs continue to comply with those conditions previously listed above or as may be amended with the FDP.

b. Any other use permitted in the PTC District shall also be permitted as an interim use in additions and modifications to the Existing Development subject to the use limitations of Section 6-505; provided however retail establishments-large, residential, hotel uses, and vehicle sale, rental and ancillary service establishments other than Existing VSREs shall not be permitted as an interim use.

(iv) Proposed additions and modifications shall demonstrate how they meet the requirements of Paragraph 8 of Section 6-505 of the Zoning Ordinance.

(v) Additions and modifications to the Existing Development shall not require compliance with the other proffered commitments set forth in these Proffers, unless otherwise stated in these Proffers.

C. Interim Development.

(i) Additions or modifications to the Existing Development beyond those deemed minor, which are sought for vehicle sale, rental and ancillary service establishments other than Existing VSREs ("Future VSREs"), shall be permitted with the approval of a PCA, a CDPA and an Interim Development FDP.

(ii) New interim structures on the Property shall be permitted with the approval of a PCA, CDPA and an Interim Development FDP in the areas delineated on Sheet S-5. Any use permitted in the PTC District shall also be permitted as an interim use in new interim structures, however, residential uses shall not be permitted.

(iii) Proposed additions and modifications for Future VSREs and new interim uses and structures shall demonstrate how they meet the requirements of Paragraph 8 of Section 6-505 of the Zoning Ordinance.
(iv) Proffer commitments associated with the new interim structures shall be
determined at the time of proffered condition amendment approval and
shall result in improvements commensurate with the scope and scale of the
proposed development.

7. Final Development Plans. FDPs for the subject site shall be in substantial conformance
with the CDP and these Proffers. FDPs approved for individual building sites on the
Property shall establish the range of GFA, range in the number of dwelling units and mix
of uses for each building within the limits established by these Proffers and the CDP. The
specific GFA for each building shall be established at final site plan. If the maximum
GFA or maximum number of dwelling units approved with the FDP is less than the
maximums shown on the CDP, the excess GFA or dwelling units may be utilized in
another building or building(s) within the Property, provided the excess GFA or dwelling
units can be accommodated within the maximum building height for the building
utilizing the excess GFA or dwelling units shown on the CDP, the minimum building
height for the building providing the excess GFA or dwelling units as shown on the CDP
is maintained, and subject to approval of the applicable FDP(s), FDPA(s) or site plans for
the building(s) utilizing the excess GFA or dwelling units. Excess GFA may not be
transferred to other properties.

In addition, the following information shall be provided on each FDP not filed
concurrently with this Rezoning application.

A. Tabulations. A tabulation indicating the development status of all property
subject to RZ 2012-HM-013 shall be provided with each FDP and site plan
submitted for the Property. The tabulation shall include a listing of all existing
and proposed buildings, along with the GFA and uses approved on the CDP, FDP
and site plan as may be applicable. The tabulation shall identify the reassignment
of any excess GFA between buildings on the Property (as compared with what
was originally shown on the CDP) and shall be updated with each subsequent
FDP and site plan approved for the Property.

B. Tree Canopy Calculations. A tabulation indicating the tree canopy calculations of
all property subject to RZ 2012-HM-013 shall be provided with each site plan
submitted for the Property and shall be updated with each subsequent site plan
approved for the Property.

C. TDM Supplement. A copy of the previous TDM Annual Report, if available, to
determine progress toward attaining TDM goals and any planned modifications to
the TDM program.

D. Functional Drawings/Sight Distance. Functional drawings to include proposed
right-of-way lines associated with existing and proposed public streets; sight
distance lines at all intersections within, and adjacent to, the FDP area overlaid on
the Landscape Plan based on existing posted and design speeds, as well as future
design speeds as, recommended by the Transportation Design Standards for
Tysons Corner Urban Center dated September 13, 2011 (the "Transportation Standards") as may be amended by the Board of Supervisors.

E. Utilities. Approximate location of existing and proposed utilities to serve the area of the FDP including the location of any utility vaults, electrical vaults, and stormwater management facilities and related maintenance points overlaid on the Landscape Plan. Modifications to the location of utility vaults, electrical vaults, stormwater management facilities and related access/maintenance points shown on the FDP may be made with the final site plan approval provided such modifications are made in consultation with the Department of Planning and Zoning ("DPZ"), the Fairfax County Department of Transportation ("FCDOT"), and the Office of Community Revitalization ("OCR").

F. Proposed Uses. A list of proposed uses and demonstration of how such uses meet the applicable "Use Limitations" of Section 6-505 of the Ordinance.

G. Architectural Elements. Specific information on architectural elements and building heights.

H. Build-to-Lines. Refinement of the build-to-lines based on proposed uses, location of possible outdoor dining areas, and identification of awnings and canopies that extend beyond the building zone.

I. Streetscape. A graphic depiction of, and any adjustments to, the activated streetscape elements as well as submission of a "Streetscape Furnishing and Materials Plan"

J. Garage Treatments. Proposed parking garage façade treatments.

K. Loading /Trash/Service Area Treatment. Proposed loading/trash/service area treatments.

L. Landscaping. Detailed landscape plans.

M. Interim Conditions. Identification of specific proposed interim conditions within the FDP area and outside the FDP area.

N. Phasing. Identification of specific proposed phased improvements in accordance with those generally set forth on the phasing-related exhibits provided on Sheets L-10-001 through L-10-008 of the CDP (the "Phasing Exhibits").

O. Parking Spaces. Refinement of the number of parking spaces; details, to the extent known, as to when tandem spaces and/or valet parking will be utilized; and assuming parking ratios in early phases exceed the maximum ratios allowed, a description and/or tabulation in the statement of justification discussing how the subject FDP and preceding FDPs are achieving the Comprehensive Plan's recommendations for phased parking such that at the build-out of the Property the maximum parking rates are not exceeded.
P. **Provisions for Bicycles.** Bicycle parking, storage, and bicycle lane dimensions.

Q. **Bus Shelters/Layover Bay.** Details of any proposed bus shelter and layover bay locations and designs.

R. **Parks and Recreation.** Specific park details, site amenities and any substitute recreation facilities.

S. **Residential Amenities.** Specific facilities and amenities to be provided for each residential building.

T. **Workforce Dwelling Units.** For residential development, the expected location (on-site or off-site) of workforce dwelling units.

U. **Stormwater Management.** Identification of specific stormwater management facilities and access points to underground vaults and a tabulation showing the impact of the FDP implementation on the retention and/or reuse of the first inch of rainfall on the Property.

8. **Development Phasing.** The Proposed Development of the Property includes six (6) buildings, which are identified on the CDP as Buildings C7 through C12. Development of the buildings may proceed in any order provided that each such building provides the phasing conditions depicted on the Phasing Exhibits and that all proffers that apply to such building are addressed with the development of that building. In addition, development of the Property shall be in accordance with the cumulative transportation phasing commitments described in Proffer 39. Where a proffer establishes an obligation that applies to a building, reference to "Applicant" in such proffer shall mean the party undertaking the development of such building.

The Applicant shall construct the grid of streets and provide pedestrian and streetscape improvements, public parks, private amenities and public facilities on the Property in conjunction with the development of each new building in accordance with the Phasing Exhibits and as further described in these Proffers. In addition, interim improvements as outlined in Proffer 27 and as may be determined at time of FDP approval shall be provided commensurate with the construction of each building. Adjustments to the phasing may be approved with FDP approvals without the requirement for a PCA or CDPA, provided the adjustments do not materially adversely affect the other phases.

For purposes of these Proffers "construct" shall mean that: i) a committed road improvement is substantially complete and is available for use by the public for travel whether or not the improvement has been accepted for maintenance by the state, and ii) a committed publicly accessible park space improvement is substantially complete and open to use by the public whether or not the improvement has been accepted by Fairfax County or the Fairfax County Park Authority ("FCPA").

9. **Fire Marshal Evaluation.** The Applicant has coordinated the layouts depicted on the CDP with the Fire Marshal. Changes from the CDP and FDPs shall be permitted in response
to the review of site plans by the Fire Marshal, including adjustments to tree locations, lane use/pavement markings, signage, crosswalks, the streetscape and perimeter building areas as necessary to allow for required emergency vehicle access, without requiring approval of a PCA, CDPA and/or FDPA, provided such modifications are made in consultation with DPZ, FCDOT, and OCR and are in substantial conformance with the CDP, FDPs and these Proffers.

10. **Festivals, Fairs or Similar Activities.** The Applicant, or its designee, shall be permitted to operate festivals, fairs or similar activities, including, without limitation, farmers' markets and food vendors, on the Property, either in the interim surface parking lots or within publicly-accessible privately owned open spaces, including portions of the private streets/pedestrian ways. The Applicant shall request the issuance or approval of a temporary special permit as may be required under the Zoning Ordinance, which may include the establishment of an annual permit for continuing or seasonal events. In addition, the Applicant reserves the right to periodically close portions of the private transportation network for said activities.

**ARCHITECTURAL DESIGN**

11. **Architecture.**

A. The architectural treatment of all buildings within the Proposed Development shall create a sense of identity and place, with a human scale at the ground plane, through the use of unifying elements such as materials, textures, color, window treatments, decorative details, lighting, and landscaping. Buildings shall be designed with high quality architecture and building materials such as high performance glass curtain wall systems, metal panel cladding systems, fiberglass reinforced concrete panels with a variety of colors and finishes, commercial grade masonry, porcelain tiles, and high quality precast concrete panel systems, or other materials that, at the time an individual FDP is approved, are typically used on the exterior of Class A office buildings and residential, retail and hotel buildings of a similar quality, as generally depicted on the CDP.

B. Each FDP shall specify the building materials, architecture, and specific features designed to activate streetscapes, as further described below. Architectural plans, elevations, illustrations, materials, and heights may be revised subsequent to CDP and FDP approval as a result of final architectural and engineering design, provided the quality of design remains in substantial conformance with that shown on the CDP and subsequent FDPs and as set forth in these Proffers, as determined by the Zoning Administrator.

12. **Build-to-Lines.** Build-to-lines ("BTL") have been depicted on the CDP, to create an urban, pedestrian-oriented environment where buildings are located close to the street and pedestrian/streetscape areas are located between the buildings and the streets. In general, building facades are intended to be configured in such a way as to provide a continuous street wall along this line, but modifications to either side of the BTL shall be permitted provided such are in general conformance with the CDP and are shown on an approved
FDP and/or site plan. Awnings and other architectural canopies attached to the building shall not extend beyond the building zone, except as may be shown on an approved FDP. At the time of FDP approval, the Applicant shall identify possible locations along the street level for expanded areas for outdoor dining adjacent to cafes and restaurants and shall provide appropriate building zones for such uses in keeping with the Comprehensive Plan recommendations.

13. **Activated Streetscapes and Ground Floor Elements.** The ground floors of all new buildings on the Property (except those buildings with only residential uses on the ground floor), but not the parking structures and entrances associated with said buildings, shall be designed and constructed with non-residential portions of ground floors having a minimum average floor to floor height of 16 feet to accommodate potential non-residential uses designed to activate the streetscape. In addition, the Applicant shall provide for a hierarchy of activated streetscapes throughout the Property as delineated on Sheets L2-001 and L2-002 of the CDP and described below. The specific activation elements to be utilized for each building shall be graphically depicted on the FDP for review and approval.

A. **Primary Pedestrian Corridors.** These areas are designed to accommodate major pedestrian activity, providing access to the Spring Hill Metro Station (the “Metro Station”) for walkers from the Property and beyond and accommodating access to, and encouraging interaction with, a variety of uses on the Property. Primary Pedestrian Corridors shall generally incorporate the following elements, which may be adjusted with approval of an FDP:

(i) The ground floors of buildings shall incorporate active uses along approximately 75% of the street frontage, with functioning entry doors into such applicable uses provided with a maximum separation of 75 feet or less, unless a greater separation is needed to accommodate larger tenant spaces or as may be permitted by the Zoning Administrator.

(ii) A minimum 60% of the area of the street front ground floor facades of such buildings shall be constructed with glazed windows and doors or other transparent materials.

(iii) Parking structures along the ground floor facades of buildings shall be minimized, but where they occur, the general façade detailing of the building above shall be continued to the ground plane or display windows provided.

(iv) No direct access to parking garages and loading/trash/service areas shall be provided from Route 7.

B. **Secondary Pedestrian Corridors.** These areas are designed to accommodate moderate pedestrian activity, providing access to a variety of uses on the Property. Secondary Pedestrian Corridors shall generally incorporate the following elements, which may be adjusted with approval of an FDP:
(i) Where the ground floors of buildings incorporate non-residential uses, functioning entry doors into such applicable uses shall be provided with a maximum separation of 75 feet or less, unless a greater separation is needed to accommodate larger tenant spaces or as may be permitted by the Zoning Administrator. A minimum 40% of the area of the street front ground floor facades of such buildings shall be constructed with glazed windows and doors or other transparent materials.

(ii) In residential buildings that do not incorporate non-residential uses on part or all of the ground floors, the building design of the primary facades shall incorporate, to the degree feasible, recreational and amenity spaces on the ground floor with a minimum of 40% of the ground floor façade constructed with glazed windows and/or doors or other transparent materials, and/or incorporate entries into individual dwelling units from the street level. If residential units have direct access to the streetscape from an individual unit, design features shall be employed to provide interior privacy (such as having a ground floor elevation that is above the sidewalk grade).

(iii) Parking structures along the ground floor facades of buildings should be minimized, but where they occur, screening composed of architectural systems designed to restrict views into the garage spaces from street level shall be applied, or the general façade detailing of the building above may be continued to the ground plane.

(iv) Loading/trash/service areas along Secondary Pedestrian Corridors shall be screened from public view through the use of roll down doors or similar treatment.

C. Tertiary Pedestrian Corridors. These areas are designed to accommodate modest pedestrian activity making connections to less intense areas or through alleys. Tertiary Pedestrian Corridors, not located along private alleys or adjacent to parks/open space, shall incorporate the following elements:

(i) Where the ground floors of buildings incorporate Non-Residential Uses, a minimum 25% of the area of the ground floor facades of such buildings shall be constructed with glazed windows and doors or other transparent materials.

(ii) In residential buildings that do not incorporate Non-Residential Uses on part or all of the ground floors, efforts shall be made to incorporate, recreational and amenity spaces on the ground floor with appropriate transparency and/or incorporate entries into individual dwelling units from the street level. Residential units that have direct access to the streetscape from an individual unit shall utilize design features to provide interior privacy (such as having a ground floor elevation that is above the sidewalk grade).
Parking structures along the ground floor facades of buildings should be minimized, but where they occur, screening composed of architectural systems designed to restrict views into the garage spaces from street level shall be applied, or the general facade detailing of the building above may be continued to the ground plane.

Access to parking garages and loading/trash/service areas may be provided along Tertiary Pedestrian Corridors.

Loading/trash/service areas along Tertiary Pedestrian Corridors shall be screened from public view through the use of roll down doors or similar treatment.

D. Service Street/Alley Corridors. These areas are designed to accommodate only modest pedestrian activity. Parking structures and access to parking garages and loading/trash/service areas are encouraged along Service Street/Alley Corridors.

14. Parking Structures. To further the goals of the Comprehensive Plan, above grade parking structures shall incorporate uses or screening at the ground level in keeping with Proffer 13, so as to provide a pleasant and attractive design/experience along the streetscape. In addition, one or more of the following techniques shall be employed to screen garage areas above the street level:

A. Inclusion of an active layer of occupied space;

B. Continuation of the general façade detailing of the tower above down to the top of the retail level storefront;

C. Extension of retail signage and architectural expressions above the retail level to provide a variety of storefront experiences, as may be permitted by the Zoning Ordinance or by an approved Comprehensive Sign Plan; or

D. Application of a variety of architectural screening materials that may include, but not be limited to, metal framing systems with inserted panels of wire mesh, metal, glass or other materials, and precast concrete or masonry spandrels designed to minimize views into the garage spaces from street level.

Parking structure design features shall be depicted on the FDP for review and approval.

15. Building Height. The minimum and maximum building heights for the proposed buildings on the Property are identified on the CDP. The final height for each building and specific steps in building height may be further refined at the time of FDP, site plan, and/or building permit approval, but shall not exceed the maximum building heights or be less than the minimum building heights shown in the Development Tabulations.

Building heights shall be measured in accordance with the provisions of the Fairfax County 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 Ordinance, including for
example, penthouses and other rooftop structures. Such penthouses and other rooftop structures may be constructed as permitted under Section 2-506 of the Ordinance. All building penthouses/rooftop structures shall be screened and integrated into the architecture of the building. The height and extent of any rooftop penthouse shall be provided on the FDP for each building site, as well as any rooftop parapet, wall, or fencing in excess of that permitted by the Zoning Ordinance.

16. **Telecommunications Equipment.** Telecommunications equipment may be placed on the proposed buildings’ rooftops or facades. Any such facilities must comply with the applicable requirements of the Zoning Ordinance and be screened and/or setback sufficiently from the perimeter of the roof and penthouse such that they are not visible from the surrounding streets. Other screening measures may be used such as including the facilities as part of the architecture of the buildings, utilizing compatible colors, or employing telecommunication screening material and flush mounted antennas. Telecommunications equipment may also be architecturally integrated onto the facades of the building where necessary to ensure on-street and/or open space coverage.

17. **Bird-Friendly Design Elements.** In an effort to reduce bird injury and death due to in-flight collisions with buildings, the Applicant shall include one or more bird friendly design elements, as determined by the Applicant, in the architectural plans of each building on the Property. The bird friendly design elements may include, but not be limited to, the use of color, texture, opacity, fritting, frosting, patterns, louvers, screens, interior window treatments, or ultraviolet materials that are visible to birds, the angling of outside lights, curbing of excessive or unnecessary night-time illumination in commercial buildings, reduction of bird attracting vegetation, the use of decoys, and breaking of glass swirls. Upon the issuance of a building permit for each building, the provisions of this Proffer shall be deemed satisfied as to such building.

**BUILDING PRACTICES**

18. **Residential Building Certifications.**

A. The Applicant shall include, as part of the building plan submission for any residential building to be constructed on the Property, a list of specific credits within the project’s registered version of the U.S. Green Building Council’s Leadership in Energy and Environmental Design New Construction (LEED®) rating system, or other LEED rating system determined to be applicable by the U.S. Green Building Council (USGBC), or its equivalent (as determined jointly by the Applicant and Fairfax County), that the Applicant anticipates attaining. All references herein to LEED include both LEED or its equivalent as determined by the Applicant and the County and all references to USGBC include the applicable equivalent agency.

Except as otherwise provided below in Paragraph E as an alternative, a LEED or equivalent-accredited professional (the "LEED-AP") who is also a professional engineer or architect shall provide certification statements at the time of building
plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED certification of the building.

B. The Applicant shall designate the Chief of the Environment and Development Review Branch ("EDRB") of DPZ as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

C. Prior to the building plan approval for the building to be constructed, the Applicant shall post a "green building escrow" in the form of cash or a letter(s) of credit from a financial institution acceptable to LDS as defined in the Public Facilities Manual (PFM), in the amount of $2.00/square foot of GFA, as shown on the approved site plan. This green building escrow shall be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED-NC certification, by the USGBC, under the project's registered version of the LEED-NC rating system or other LEED rating system determined, by the USGBC, to be applicable to each building. The provision to EDRB of documentation from the USGBC that each building has attained LEED-NC certification will be sufficient to satisfy this commitment.

D. At the time LEED-NC certification is demonstrated to the EDRB, the escrowed funds and/or letter(s) of credit shall be released to the Applicant.

If prior to bond extension, reduction or final bond release for the applicable building site, whichever occurs first, the Applicant provides to EDRB documentation demonstrating that LEED-NC certification for the building has not been attained but that the building has been determined by the USGBC to fall within three (3) points of attainment of LEED-NC certification, 50% of the green building escrow will be released to the Applicant; the other 50% will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of county environmental initiatives. If the certification is still in progress at the time of application for bond extension or reduction, which given the construction timelines associated with the Proposed Development there is the potential for multiple bond extensions or reductions prior to the Proposed Development's completion, the time frame for the provision of the documentation described above shall be automatically extended to the time of the next bond extension or reduction. However, the documentation must be provided prior to the final bond release for the applicable building site.

If prior to bond extension, reduction or final bond release for the applicable building site, whichever occurs first, the Applicant fails to provide documentation to EDRB demonstrating attainment of LEED-NC certification or demonstrating that the building has fallen short of LEED-NC certification by three (3) points or less, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation
of County environmental initiatives. If the certification is still in progress at the
time of application for bond extension or reduction, which given the construction
timelines associated with the Proposed Development there is the potential for
multiple bond extensions or reductions prior to the Proposed Development’s
completion, the time frame for the provision of the documentation described
above shall be automatically extended to the time of the next bond extension or
reduction. However, the documentation must be provided prior to the final bond
release for the applicable building site.

E. As an alternative to the actions outlined in the Paragraphs A, C and D above, the
Applicant may choose, at its sole discretion, to pursue a certification higher than
LEED-NC, in which case the LEED-AP will provide certification statements at
the time of building plan review confirming that the items on the list of specific
credits will meet at least the minimum number of credits necessary to attain
LEED-NC Silver certification.

Prior to building plan approval for the building to be constructed, the Applicant
shall submit documentation to EDRB, regarding the USGBC’s preliminary
review of design-oriented credits in the LEED program. This documentation will
demonstrate that the building is anticipated to attain a sufficient number of
design-related credits that, along with the anticipated construction-related credits,
will be sufficient to attain LEED-NC Silver certification. Under this alternative,
the Applicant is not required to provide a “green building escrow” unless the
Applicant fails to provide the above referenced documentation that the building is
anticipated to attain LEED-NC Silver pre-certification.

Prior to final bond release of each building, the Applicant shall submit
documentation to EDRB, confirming the status of LEED certification.

F. As an alternative to the actions outlined in the Paragraphs A, C, D and E above, if
applicable and if the project meets the eligibility criteria for the rating system, the
Applicant may select, subject to EDRB approval, an alternate residential rating
system such as Earth Craft, Energy Star Qualified Homes for Multifamily High
Rise, or the 2012 National Green Building Standard (NGBS) using the ENERGY
STAR® Qualified Homes path for energy performance that may be implemented
without an escrow. If one of the alternate residential rating systems listed herein
is selected as an alternative to the previous paragraphs, the Applicant shall note
the selected system and provide a completed checklist of the anticipated options
to be pursued for the specified rating system at the time of building plan review.
The Applicant shall demonstrate attainment of the selected certification from a
rater recognized through the selected program prior to bond extension, reduction
or final bond release of each building site, whichever occurs first. If the
certification is still in progress at the time of application for bond extension or
reduction, which given the construction timelines associated with the Proposed
Development there is the potential for multiple bond extensions or reductions
prior to the Proposed Development’s completion, the time frame for the provision
of the documentation described above shall be automatically extended to the time
of the next bond extension or reduction. However, the documentation must be provided prior to the final bond release for the applicable building site.

19. **Non-Residential Building Certifications.**

A. The Applicant shall include, as part of the building plan submission for any new non-residential building to be constructed on the Property, a list of specific credits within the project’s registered version of the U.S. Green Building Council’s Leadership in Energy and Environmental Design Core and Shell (LEED®) rating system, or other LEED rating system determined to be applicable by the U.S. Green Building Council (USGBC), or its equivalent (as determined jointly by the Applicant and Fairfax County), that the Applicant anticipates attaining. All references herein to LEED include both LEED or its equivalent as determined by the Applicant and the County and all references to USGBC include the applicable equivalent agency.

Except as otherwise provided below in Paragraph E as an alternative, the LEED-AP shall provide certification statements at the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED Silver certification of the building.

B. The Applicant shall designate the Chief of EDRB as a team member in the USGBC’s LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

C. Prior to the building plan approval for the building to be constructed, the Applicant shall post a “green building escrow” in the form of cash or a letter(s) of credit from a financial institution acceptable to LDS as defined in the Public Facilities Manual (PFM), in the amount of $2.00/square foot of GFA, as shown on the approved site plan. This green building escrow shall be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED-CS Silver certification, by the USGBC, under the project’s registered version of the LEED-CS rating system or other LEED rating system determined, by the USGBC, to be applicable to each building. The provision to the EDRB of documentation from the USGBC that each building has attained LEED-CS Silver certification will be sufficient to satisfy this commitment.

D. At the time LEED-CS Silver certification is demonstrated to EDRB, the escrowed funds and/or letter(s) of credit shall be released to the Applicant.

If prior to bond extension, reduction or final bond release for the applicable building site plan, whichever occurs first, the Applicant provides to EDRB documentation demonstrating that LEED-CS Silver certification for the building has not been attained but that the building has been determined by the USGBC to
fall within three (3) points of attainment of LEED-CS Silver certification, 50% of
the green building escrow will be released to the Applicant; the other 50% will be
released to Fairfax County and will be posted to a fund within the County budget
supporting implementation of County environmental initiatives. If the
certification is still in progress at the time of application for bond extension or
reduction, which given the construction timelines associated with the Proposed
Development there is the potential for multiple bond extensions or reductions
prior to the Proposed Development’s completion, the time frame for the provision
of the documentation described above shall be automatically extended to the time
of the next bond extension or reduction. However, the documentation must be
provided prior to the final bond release.

If prior to bond extension, release or final bond release for the applicable building
site plan, whichever occurs first, the Applicant fails to provide documentation to
EDRB demonstrating attainment of LEED-CS Silver certification or
demonstrating that the building has fallen short of LEED-CS Silver certification
by three (3) points or less, the entirety of the escrow for that building will be
released to Fairfax County and will be posted to a fund within the County budget
supporting implementation of County environmental initiatives. If the
certification is still in progress at the time of application for bond extension or
reduction, which given the construction timelines associated with the Proposed
Development there is the potential for multiple bond extensions or reductions
prior to the Proposed Development’s completion, the time frame for the provision
of the documentation described above shall be automatically extended to the time
of the next bond extension or reduction. However, the documentation must be
provided prior to the final bond release.

E. As an alternative to the actions outlined in the Paragraphs A, C and D above, the
Applicant may choose at its sole discretion to pursue a certification higher than
LEED-CS Silver, in which case the LEED-AP will provide certification
statements at the time of building plan review confirming that the items on the list
of specific credits will meet at least the minimum number of credits necessary to
attain LEED-CS Gold pre-certification.

Prior to building plan approval for the building to be constructed, the Applicant
shall submit to EDRB documentation from the USGBC demonstrating that LEED
Gold pre-certification under the Core and Shell program has been attained for that
building. Under this alternative, the Applicant is not required to provide a “green
building escrow” unless the Applicant fails to provide the above referenced
documentation that the building is anticipated to attain LEED-CS Gold
certification.

However, if the Applicant is unable to provide the pre-certification documentation
prior to the building permit approval but does anticipate receiving the
documentation prior to the attainment of the certification, the Applicant may,
prior to the issuance of the building permit, post an escrow identical to the one
described in Paragraph C above. This escrow will be released upon submission of
the documentation to EDRB from the USGBC demonstrating that the building is anticipated to attain a sufficient number of credits to attain LEED Gold certification.

20. **Sustainable Energy Practices.** To promote efficient, renewable and sustainable energy practices, the Applicant shall provide the following:

   A. **Electric Vehicle Charging Infrastructure.** A minimum of four (4) electric vehicle recharging stations that serve eight (8) parking spaces and conduit to facilitate additional future recharging stations in the parking garage for each building.

   B. **Energy and Water Data.** To the extent there are master electric, gas and water meters for entire buildings, upon request by the County the Applicant shall provide to the County aggregated non-proprietary energy and water consumption data, as practicable, for the each building and the entire Property.

21. **Noise Attenuation.** Prior to FDP approval for each building on the Property, the Applicant shall submit a traffic noise analysis to the Chief of the Environment and Development Review Branch ("EDRB") of DPZ identifying any areas of the building with projected traffic noise greater than a day-night averaged noise level ("Ldn") of 65 decibels ("dBA"). Such analysis shall take into consideration development phasing (which buildings may, or may not, have be constructed), and how that may affect noise impacts. The Applicant shall reduce the interior day-night average sound level ("DNL") to no more 45 dBA for residential buildings and 50 dBA for office buildings on the Property. At the time of building plan application for the full shell building permit for any impacted building, the Applicant shall submit to the Chief of the EDRB for approval, and to LDS for information only, a refined acoustical study prepared by a qualified acoustical consultant (the "Indoor Noise Study") addressing indoor noise levels, including development phasing, proposed noise attenuation measures, and proposed materials to ensure compliance with the interior DNL limit of 45 dBA or 50 dBA, as appropriate. The Applicant shall not obtain full-shell building permits until the Chief of the EDRB has approved the applicable Indoor Noise Study, provided that a failure by the Chief of the EDRB to review and respond to the Applicant within 60 days of receipt of the Indoor Noise Study shall be deemed approval of such study.

22. **Notification of Exterior Noise Levels.** In the event that exterior balconies on residential buildings are anticipated to be exposed to exterior noise levels in excess of 65 dBA, the Applicant shall notify the potential tenants or purchasers of such residential units, either in the lease or sales contract, that exterior noise levels may exceed 65 dBA, which is the policy established by Fairfax County for outdoor recreation in residential areas impacted by high noise levels.

SITE DESIGN

23. **Conceptual Landscape Plan.** The CDP includes a conceptual landscape plan for the Property consisting of an overall plan and details regarding streetscapes, plazas, publicly accessible park areas including skyparks, courtyards and private amenity areas. As part of
subsequent FDP approvals, more detailed landscape plans for each building phase shall be provided in general conformance with the concepts included on Sheets L1-000 and L3-001 with adjustments permitted so long as the quantity and quality of the landscaping provided and the function of the space remains consistent with that shown on the CDP. Such plan shall include the location of all known utilities and sight distance requirements overlaid on the planting plan.

24. **Detailed Landscape Plan.** As part of the first and all subsequent site plan submission(s) for each building phase, the Applicant shall submit to the Urban Forestry Management Division of the Department of Public Works and Environmental Services ("UFMD") for review and approval a detailed landscape plan that is in substantial conformance with the quantity and quality of plantings and materials landscaping shown on the approved FDP, and shall include, among other things, irrigation information, design details for tree wells and other similar planting areas on structures and along streets as well as tree canopy calculations for the Property. These details shall include the composition of planting materials, methods for providing suspended pavement over tree root zones to prevent soil compaction, and methods for ensuring the viability of plantings on structures and along streets. Adjustments to the type and location of plantings shall be permitted to avoid conflicts with utilities and other site engineering considerations.

Prior to the installation of plants to meet requirements of the approved landscape plan, the Applicant shall coordinate a pre-installation meeting on site with the landscape contractor and a representative of UFMD.

25. **Streetscaping.** Streetscaping shall be installed throughout the Property as conceptually illustrated on Sheets L8-001 through L8-003. Streetscape elements shall include: a landscape amenity panel located immediately behind the face of curb; a clear pedestrian sidewalk adjacent to the landscape amenity panel; and a building zone between the pedestrian sidewalk and the face of the building that is designed to allow access to the building and/or additional landscaping adjacent to residential uses and also storefront browsing, outdoor display, outdoor dining, and similar uses adjacent to Retail/Service uses. Streetscaping elements may be adjusted at the time of FDP approval provided the quality of the streetscape is consistent with that shown on the CDP.

A. **Street Trees.** Street tree planting sites are depicted on the CDP, subject to revision as may be approved on the FDP, or at site plan review by UFMD or necessitated by providing bus stop shelters, clear zone requirements, etc. The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist to monitor the design and inspect the planting of the street trees and shall notify UFMD prior to tree pit construction to allow for County inspection. Where minimum planting widths of eight (8) feet cannot be provided, structural cell technology, or other measures acceptable to UFMD, shall be used to satisfy the following specifications for all planting sites:

(i) A minimum of 4 feet open surface width and 16 square feet open surface area for Category III and Category IV trees, with the tree located in the
center of the open area or as an option a grated covering of the open surface area as may be approved with the FDP;

(ii) A minimum rooting area of 8 feet wide (may be achieved with techniques to provide un-compacted soil below hardscape areas within the pedestrian realm), with no barrier to root growth within four feet of the base of the tree;

(iii) Minimum soil volume for Category III and Category IV trees (as defined in Table 12.19 of the PFM) shall be 700 cubic feet per tree for single trees. However, in the event that the 700 cubic feet of soil volume cannot be met, less volume may be provided per UFMD review and approval. A contiguous planting area containing multiple trees shall provide soil conditions favorable for root growth.

(iv) Typical soil specifications shall be provided at time of site plan to UFMD for trees counted to meet 10 year tree canopy coverage. Actual soil specifications in planting sites shall be provided after rough grading but before fine grading of the landscape/plant areas. Soil media as described in the soil specifications shall be installed at time of planting;

(v) All shade trees shall be a minimum of 3 inch caliper at the time of planting; all flowering trees shall be a minimum of 2 inch caliper at the time of planting; and all new evergreen trees shall be a minimum of eight (8) feet in height at the time of planting; and

(vi) Street trees planted within existing utility easements that are removed to facilitate repairs of utilities in these easements shall be replaced.

B. Non-Invasive Plant Materials. Invasive species, as defined by the Fairfax County PFM, shall not be used within the streetscape and landscaped open space areas.

C. Utility Locations. Utilities, including, but not limited to water, sanitary sewer and storm sewer utility lines, shall be installed within the street network to the maximum extent feasible as determined by LDS or shall be placed in locations that do not conflict with the landscaped open space areas and streetscape elements shown on the CDP and/or subsequent FDP as determined by LDS. If there is no other option, utilities may be placed within open space or streetscape areas provided that the long-term health of trees and other plantings is ensured by the provision of sufficient soil volume as outlined in these Proffers, as determined by the UFMD. A conceptual utility plan shall be overlaid on the landscape plan submitted in the FDP. Adjustments to the type and location of plantings shall be permitted to avoid conflicts with utilities and other site engineering considerations. If at the time of site plan approval, street trees shown on the FDP are in conflict with existing or proposed utilities and alternative locations for the street trees satisfactory to UFMD cannot be accommodated, the Applicant may delete such trees without the need for the issuance of a minor modification
approval by DPZ and without a PCA, CDPA and/or FDPA provided the minimum 10% tree canopy can still be met.

Maintenance access points to SWM Facilities and electric vaults beneath the streetscape should be located outside clear pedestrian walkway zone of the streetscape to the extent feasible. These maintenance access points shall be shown on each site plan. If the access points must be located in the walkway zone, they shall be designed as a lift out panel with the same paving materials as the walkway (subject to ADA requirements), be flush with the walkway, and meet ADA accessibility requirements. These maintenance points shall be shown on each FDP.

D. Sight Distance Considerations. Sight distance requirements shall be provided on the landscape plan submitted with each FDP, so as to identify and avoid conflicts with street tree locations. If at the time of site plan approval street tree locations approved on the FDP are determined to conflict with sight distance requirements, the Applicant shall make efforts to gain approval of said trees by UFMD by making minor adjustments to their locations or by removing their lower branches. In the event VDOT, FCDOT or any applicable utility company does not approve the tree locations even after the changes anticipated above, the Applicant shall be permitted to relocate the affected street tree without the need for confirmation from DPZ, subject to approval by the UFMD. If a tree that is deleted due to VDOT requirements would result in a tree canopy below 10% on the Property, the tree(s) shall be accommodated in another location on the Property, as approved by DPZ in consultation with UFMD.

E. Streetscape Furnishings and Materials and Lighting. Unified and high quality streetscape materials shall be provided and may include, but not be limited to, unit pavers, seat walls, tree space edging, lighting, traffic signal poles, benches, trash and recycling receptacles and other hardscape elements. A Streetscape Furnishing and Materials Plan shall be provided as part of all FDPs. These plans shall include general product information and approximate locations of furnishings and materials to be located in the streetscape between the building face and the curb, and in other public realm open spaces. Materials, furnishings, and lighting shall be compatible with those already identified in the Tysons Urban Design Guidelines for the Tysons West area, dated January 14, 2012, as may be amended and or modified and shall be coordinated with any streetscape design efforts put forth by the Tysons Partnership, but shall not be subject to approval by the Tysons Partnership.

All streetscape lighting shall be energy efficient. All on-site, outdoor and parking garage lighting shall not exceed that permitted under the Outdoor Lighting Standards of Section 14-900 of the Zoning Ordinance. All parking lot and new building mounted security lighting shall utilize full cut-off fixtures. Recessed lighting shall be directionally shielded to mitigate the impact on the adjacent properties.
F. **Signage and Wayfinding.** Signage for the Property shall be provided in accordance with the requirements of Article 12 of the Zoning Ordinance or as may be approved with a future Comprehensive Sign Plan ("CSP") for the Property. The placement of traffic control signage on public streets shall be coordinated with VDOT. Wayfinding signage and elements may be provided as part of a CSP for the Property or as part of a larger CSP for the Tysons area. Wayfinding shall provide direction to locations of prominent attractions, parks, cultural arts destinations, bicycle trails, and other public amenities.

G. **Maintenance.** The Applicant shall maintain and replace in-kind all pedestrian realm elements within the Proposed Development. The pedestrian realm includes all areas between the back of curb and the back of the clear pedestrian sidewalk building zone whether located within the public right-of-way or on private land with public access easements. The Applicant shall enter into the appropriate agreement, in a form approved by the Office of the County Attorney, with the County (or other public entity, as needed) to permit the Applicant to perform such maintenance. The Applicant shall not be required to repair or restore any elements of the pedestrian realm within publicly-owned areas that are damaged by contractors or permittees that are not acting under the direct authority of the Applicant. An alternative maintenance agreement, such as a Business Improvement District, may be entered into upon written agreement of both the County and the Applicant without the requirement for a PCA. Maintenance commitments include, but are not limited to:

(i) All plantings including trees, shrubs, perennials, and annuals;
(ii) All associated irrigation elements;
(iii) All hard surfaces;
(iv) All streetscape furnishings including trash and recycling receptacles, benches, bike racks and non-standard structures;
(v) All lighting fixtures, brackets and poles;
(vi) All non-VDOT standard sign posts, traffic signal poles, pedestrian signal poles, mast arms, signal heads and control boxes;
(vii) Snow removal;
(viii) Leaf removal;
(ix) Trash, recycling and litter removal;
(x) Decorative retaining walls;
(xi) Special drainage features, such a Low Impact Design facilities; and
(xii) All urban park amenities including horticultural care, maintenance of all water features, irrigation, lighting, furnishings, paving, and art.

Phasing of streetscaping is discussed within the context of individual phases as depicted in the Phasing Exhibits. As determined at the time of FDP approval, where the final streetscape design cannot be fully implemented during certain phases of development, the Applicant shall provide interim streetscape improvements as described in Proffer 27A and B.

26. **Soil Remediation.** Where it is determined that planting areas are compacted and unsuitable for the establishment and long-term survival of landscape plants, such planting areas shall be aerated and amended to a depth of 18-24 inches to restore planting areas to satisfy cultural requirements of trees, shrubs and groundcovers specified in the landscape planting plan at site plan. The Applicant shall provide notes and details in the landscape plan specifying how the soil will be restored for the establishment and long-term survival of landscape plants.

27. **Interim Conditions and Standards.** Due to the size of the Proposed Development and the time anticipated for its build-out, phased redevelopment may result in various interim conditions on the Property. At the time of FDP submission, the Applicant shall identify the specific proposed interim conditions within the FDP area and outside the FDP area and shall ensure such conditions provide reasonable pedestrian connections, vehicular circulation and access, temporary streetscaping and landscaping, public park treatments, and screening/treatment of exposed/partially complete above grade parking structures.

A. If an interim condition/phase includes partial demolition of an existing structure, the FDP for that phase shall include all or a portion of the existing structure as necessary to ensure revisions to parking and on-site circulation for the existing structure are adequate.

B. If interim improvements not located on the Property are contemplated with any FDP, such FDP shall specify how and when such improvements are to be constructed.

C. Interim conditions shall comply with the following general standards, provided that the improvements are acceptable to Fairfax County, VDOT, and all other utility companies as may be appropriate; however they may be modified and adjusted with FDP approval.

(i) Construction of interim sidewalks a minimum of five (5) feet in width and installation of interim street lights along the interim sidewalks, the selection of which shall be approved with the applicable FDP, as needed to ensure a safe, convenient pedestrian path to the Metro Station.

(ii) Installation of street trees, with a minimum size of 2 inch caliper, approximately every 50 feet, to the extent feasible as determined by UFMD based on existing conditions and utility easements. Interim street
tree planting shall not be required to meet the minimum planting width/area standard for permanent street trees.

(iii) Provision of interim designs for publicly accessible open spaces will include interim landscaping, pedestrian pathways, seating, signage, lighting and recreational facilities as determined at FDP. Interim public open space areas shall be clearly signed as an interim or temporary facility.

(iv) Provision of peripheral and interior parking lot landscaping in accordance with Article 13-203 of the Zoning Ordinance for new interim surface parking lots, unless waived or modified at site plan.

(v) Application of a screening system (which may be removable) where above grade garage structures that will be interior when later phases are complete are exposed at phase lines. This screening system shall be applied to all levels above grade and shall be composed of an architecturally designed system that may reflect basic architectural lines of the permanent facades, and that shall partially obscure the garage view from outside the garage until the next phase is constructed. The use of temporary artworks as a part of the screening system shall also be considered as part of the interim screening system. The specific screening system to be utilized for each building shall be determined at the time of FDP approval and graphically depicted on the FDP. Alternate temporary garage screening may be approved with FDP approval.

(vi) Grading and seeding of areas on the Property where existing improvements are removed to accommodate a portion of the Proposed Development, and are not scheduled to commence construction within 12 months.

(vii) Where appropriate, provision of attractive temporary construction fencing, which may include public art, signage or wayfinding elements. Signage shall be in keeping with Article 12 of the Ordinance or alternatively in accordance with an approved Comprehensive Sign Plan.

TRANSPORTATION IMPROVEMENTS

28. **Grid of Streets.** The Applicant shall construct and open for use to the public a proposed grid of streets as generally located and depicted on Sheets C-08 though C-10 of the CDP and in accordance with the phased development set forth in these Proffers. For the purposes of these Proffers, Route 7, Dominion Street, Roseline Street, Boone Boulevard and Meridian Street shall be considered to run east-west and Spring Hill Road, Commonwealth Street, Spring Way, Infinity Way and State Street shall be considered to run north-south. The functional classification of those roadways comprising the grid of streets is summarized below:
<table>
<thead>
<tr>
<th>Street</th>
<th>Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Route 7</td>
<td>Low-Speed Boulevard</td>
</tr>
<tr>
<td>Boone Boulevard</td>
<td>Avenue</td>
</tr>
<tr>
<td>Roseline Street</td>
<td>Collector</td>
</tr>
<tr>
<td>Commonwealth Street</td>
<td>Local</td>
</tr>
<tr>
<td>Dominion Street</td>
<td>Local</td>
</tr>
<tr>
<td>Infinity Way</td>
<td>Service Alley (private)</td>
</tr>
<tr>
<td>State Street</td>
<td>Collector</td>
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</tbody>
</table>

A. **Public Streets.** The Applicant shall dedicate right-of-way along the Property's frontages for Boone Boulevard, Roseline Street, Commonwealth Street, , and Dominion Street (the “Public Streets”) to a point inclusive of the landscape amenity panel and the sidewalk or to such standard as may be approved on the FDP. All improvements proposed to Public Streets shall be subject to VDOT approval and designed to be in general conformance with the *Transportation Design Standards for Tysons Corner Urban Center* of the Memorandum of Agreement approved by the Board of Supervisors on September 13, 2011, as may be amended (the “Design Standards”), subject to modifications/waivers as may be granted.

The Applicant shall work diligently with VDOT and the County during the FDP and site plan approval processes to ensure that the improvements proposed to existing and new public streets can be accepted by VDOT as public streets.

The Applicant shall diligently pursue VDOT acceptance of improvements to existing streets and new public streets, for secondary street maintenance in accordance with the process outlined in VDOT’s Secondary Street Acceptance Requirements (the “SSAR”), as amended, including VDOT’s written certification that such streets and/or improvements have been constructed in a manner consistent with the VDOT approved plans and compliant with all applicable regulations ("VDOT’s Written Certification"). In the event the Board of Supervisors has not requested that VDOT accept the dedicated new public streets or improvements into the secondary street network for maintenance within five (5) years of VDOT’s Written Certification, such street(s) may be retained by the Applicant upon notification to, and the concurrence of FCDOT, as a private street subject to a public access and maintenance agreement in a form acceptable to the County Attorney. In such event, a PCA, CDPA and/or FDPA will not be required.

The Applicant shall dedicate and convey in fee simple to the Board of Supervisors rights-of-way for the Public Streets as may be further qualified by these Proffers.

Dedication shall include the area of the adjacent landscape amenity panel and sidewalk and shall occur at the time of site plan approval, with the following exceptions:
(i) If at the time of site plan approval it is determined that stormwater management facilities, electric vaults or other similar facilities proposed to be located beneath the landscape amenity panel/sidewalk, signage, or building projections proposed above the landscape amenity panel/sidewalk prevent VDOT and/or Fairfax County from accepting the landscape amenity panel/sidewalk within the right-of-way, the Applicant shall provide dedication measuring 18 inches from the proposed face of curb line and shall grant a public sidewalk and utility easement in a form acceptable to the Office of the County Attorney over the area of the landscape amenity panel and sidewalk areas. This easement shall allow for the installation of signage necessary for safety and operation of the street as well as parking regulation equipment by VDOT and/or the County. In addition, the Applicant shall provide easements within the amenity panel/sidewalk area for bus pads and shelters as determined at the time of FDP or site plan.

(ii) If at the time of site plan approval it is unclear whether stormwater management facilities, electric vaults or other similar facilities proposed to be located beneath the landscape amenity panel/sidewalk, signage, or building projections proposed above the landscape amenity panel/sidewalk will be acceptable to VDOT and/or Fairfax County, the Applicant shall provide dedication measuring 18 inches from the proposed face of curb line at the time of site plan approval and shall reserve for potential future dedication the landscape amenity panel and sidewalk areas. A temporary public access easement in a form acceptable to the County Attorney shall be recorded over the reserved landscape amenity panel/sidewalk areas until such time as such areas are dedicated. Conveyance of the amenity panel/sidewalk areas to the Board of Supervisors shall occur following construction of the street and streetscape improvements and final street acceptance inspection by Fairfax County and/or VDOT subject to the stipulations in these Proffers.

(iii) Should it be determined following final street acceptance inspection that the landscape amenity panel and sidewalk areas are not acceptable to VDOT and/or Fairfax County to be included in the right-of-way, the reservation of potential future dedication of the landscape amenity panel and sidewalk areas shall be released and a public sidewalk and utility easement, in a form acceptable to the Office of the County Attorney, shall be granted in its place. This easement shall allow for the installation of signage necessary for safety and operation of the street as well as parking regulation equipment by VDOT and/or the County. In addition, the Applicant shall provide easements within any privately-owned amenity panel/sidewalk area for bus shelters as determined at the time of FDP or site plan.
B. **Private Streets.** A public access easement in a form acceptable to the Office of the County Attorney shall be granted for the street and appurtenant facilities associated with any private streets as well as to facilitate County transit bus, inspection and emergency access; such public access easement to become effective upon completion of the street.

C. **Definition of Construct.** For purposes of these Proffers "construct" shall mean that the committed road improvement is open to use by the public for travel whether or not the improvement has been accepted for maintenance by the state.

D. **Naming.** The Applicant reserves the right to provide different names for the streets than those shown on the CDP.

E. **Street/Sidewalk Closures.** The Applicant may temporarily close part or all of any streets or sidewalks to accommodate construction activity on the Property provided safe and adequate pedestrian and vehicular access is maintained.

F. **Parking Lanes.** The Applicant shall provide on-street parking throughout the limits of the Property as generally located on the CDP.

29. **Dominion Street.**

A. The Applicant shall design and construct Dominion Street within the Property's limits as generally depicted on Sheets C-09 of the CDP. Dominion Street shall be constructed in general accordance with the typical section depicted on Sheet C-21, as a Local Street, with convertible parking/travel lanes provided along both sides of the roadway and with variable pavement/widening provided at select locations to accommodate certain turning movements and/or pavement transitions.

B. The final design and extent of the improvements to Dominion Street shall be determined in conjunction with the submission of any FDP and all site plans for those portions of the Property in along Dominion Street. Construction of Dominion Street shall be provided with the construction of Buildings C-9, C-10, and C-11 in accordance with the Phasing Exhibits and as further detailed at the time of FDP and site plan approval.

C. If not previously provided by others, the Applicant shall construct an extension of Dominion Street across the adjacent parcel identified as 2017 Tax Map 29-3 ((1)) 5 ("Parcel 5") to connect with the planned or existing extension of Dominion Street on adjacent property to the west, provided the owner of Parcel 5 grant permission for such construction at no cost to the Applicant as set forth in Proffer 64B, other than typical legal and engineering fees associated with easement preparation and recordation.

30. **Roseline Street.**

A. The Applicant shall design and construct Roseline Street within the Property's limits as generally depicted on Sheets C-09, C-10 and C-11 of the CDP.
Roseline Street between Commonwealth Street and Infinity Way shall be constructed in general accordance with the typical section depicted on Sheet C-20, a two-lane Collector Street, with one travel lane in each direction, on-street bicycle lanes in each direction. The design may also include variable pavement/widening provided at select locations to accommodate certain turning movements and/or pavement transitions at FDCOT and VDOT’s discretion.

Between Commonwealth Street and the western property line, Roseline Street may be constructed as an interim section with two travel lanes (one in each direction) in order to connect with the planned or existing extension of Roseline Street on adjacent property to the west. The Applicant shall escrow the cost of expanding this portion of Roseline on the Property to the full section as described in the paragraph above for future construction by others, as well as the cost of reconstruction of the associated streetscape on the north side of Roseline Street.

B. The final design and extent of the improvements to Roseline Street as generally described above shall be determined in conjunction with the submission of any FDP and all site plans for those portions of the Property along Roseline Street. Construction shall be provided with the construction of Buildings C-11 and C-12 in accordance with the Phasing Exhibits and as further detailed at the time of FDP and site plan approval.

C. If not previously provided by others, when the Applicant constructs Roseline Street along the Building C-12 frontage, it shall also construct an extension of Roseline Street across the adjacent parcel identified as 2017 Tax Map 29-3 ((1)) 5 ("Parcel 5") to connect with the planned or existing extension of Roseline Street on adjacent property to the west, provided the owner and easement holder of Parcel 5 grant permission for such construction at no cost to the Applicant as set forth in Proffer 64B, other than typical legal and engineering fees associated with easement preparation and recordation.

31. **Commonwealth Street.**

A. The Applicant shall design and construct Commonwealth Street through the Property as generally depicted on Sheets C-09 and C-10 of the CDP. Commonwealth Street shall be constructed in general accordance with the typical section depicted on Sheet C-21, as a two-lane Local Street with a parking lane on each side of the street and with variable pavement/widening provided at select locations to accommodate certain turning movements and/or pavement transitions.

B. The final design and extent of the improvements to Commonwealth Street as generally described above shall be determined in conjunction with the submission of any FDP and all site plans for those portions of the Property fronting Commonwealth Street. Construction of Commonwealth Street north of Roseline Street shall be provided in accordance with the Phasing Exhibits and as further detailed at the time of FDP approval. Construction of Commonwealth Street
south of Roseline Street shall be provided concurrently with the construction of
the athletic field described in Proffer 62F or the electric substation described in
Proffer 64, whichever occurs last.

32. **Infinity Way.**

A. The Applicant shall construct Infinity Way along the eastern property boundary in
general accordance with the design shown on Sheet C-09. Infinity Way shall be
constructed as a private street in general accordance with the typical section
depicted on Sheet C-21, a Service Alley. Construction shall be provided as
shown in the Phasing Exhibits and as further detailed at the time of FDP and site
plan approval. A public access easement in a form acceptable to the Office of the
County Attorney shall be granted over Infinity Way and all land between Infinity
Way and the Property’s eastern boundary to facilitate emergency access and
provide inter-parcel access to serve development on adjacent property to the east
identified as 2017 Tax Map 29-3 ((1)) 43B.

B. Unless otherwise determined at the time of FDP or site plan approval for
Buildings C8 or C9, in its ultimate condition Infinity Way shall not connect to
Route 7. On an interim basis the existing site entrance shall be permitted right-in
and right-out movements with the interim phases of Buildings C9, C11 and C12
as shown on Sheets L10-005, L10-007 and L10-008.

C. If requested by the County in the future, the Applicant shall cooperate in the
establishment of Infinity Way as a local public street, including reasonable
improvements (however not to include widening) to the street for acceptance into
the state system. In the event VDOT and/or Fairfax County choose to accept
Infinity Way as a public street as designed, the Applicant shall dedicate in fee
simple to the Board of Supervisors right-of-way for Infinity Way to a point
inclusive of the clear sidewalk in keeping with Proffer 28.

33. **Boone Boulevard.**

A. The Applicant shall design and construct Boone Boulevard across the Property in
general accordance with the design shown on Sheet C-10 and the typical section
depicted on Sheet C-20 for an Avenue, with interim striping provided as shown
on Sheet C-11.

B. The final design and extent of improvements to Boone Boulevard as generally
described above shall be determined in conjunction with the submission of any
FDP and all site plans for those portions of the Property fronting Boone
Boulevard. Should it be determined at FDP that a reduced section of Boone
Boulevard is appropriate, the Applicant shall dedicate right-of-way for, and
construct, the ultimate section, and shall stripe Boone Boulevard as shown on
Sheet C-10A or Sheet C-11A, with one (1) travel lane in each direction, a shared
center turn lane, bicycle lanes in each direction, and areas of on-street parking, or
as may be further detailed at the time of FDP or site plan approval.
C. Construction of Boone Boulevard across the Property shall be provided:

(i) As set forth in the cumulative development phasing described in Proffer 39;

(ii) Prior to the issuance of the first RUP or Non-RUP for the seventh building to be constructed on the combined East and West Land Bays; or

(iii) Prior to the issuance of the first RUP or Non-RUP for the fifth building to be constructed on the combined East and West Land Bays provided Boone Boulevard has been site planned approved and bonded to the eastern property line of the Sunburst Property (identified as 2017 Tax Map 29-3 ((1)) 2G), whichever shall occur first.

D. If not previously provided by others, when the Applicant constructs Boone Boulevard west of Commonwealth Street, it shall also shall construct an extension of Boone Boulevard across the adjacent parcel identified as 2017 Tax Map 29-3 ((1)) 5 ("Parcel 5") to connect with the planned or existing extension of Boone Boulevard on adjacent property to the west, provided the owner and easement holder of Parcel 5 grant permission for such construction at no cost to the Applicant as set forth in Proffer 64B, other than typical legal and engineering fees associated with easement preparation and recordation.

34. State Street. The Applicant may elect to design and construct an interim section of State Street from Boone Boulevard to Route 7 in general accordance in one of the three alignments shown on Sheet S-2 of the CDP, and as may be recommended by FCDOT’s State Street Study and endorsed by VDOT. The interim section of State Street consists of three (3) travel lanes (two northbound and one southbound) in general accordance with the typical section depicted on Sheet S-2, with additional pavement/widening provided at select locations to accommodate certain turning movements and/or pavement transitions. It is anticipated that with the future redevelopment of adjacent parcels, State Street will be expanded by others to include additional travel lanes and bicycle lanes and parking lanes on both sides of the street.

A. The interim section of State Street from Boone Boulevard to Route 7 may be constructed to support development on the Property as set forth in Proffer 39 and as may be further refined at the time of FDP or site plan approval.

B. Depending on the specific alignment, construction of the interim section of State Street will require off-site right-of-way and/or easements from adjacent parcels (the “State Street Off-Site Parcels”).

(i) In the event the Applicant attempts to but is unable to acquire the right-of-way and/or easements necessary to construct State Street on the State Street Off-Site Parcels through cooperative agreements with the owners, which may include a reservation of advanced density credit for dedicated rights-of-way consistent with the Zoning Ordinance, then the Applicant may choose to demonstrate in writing its efforts to acquire this right-of-
way/easements and may submit a written request to Fairfax County in accordance with Proffer 71 asking the County to use its powers of condemnation to acquire those off-site rights-of-way and/or easements to facilitate the construction of the above improvement. In such case, if the County acquires those off-site rights-of-way and/or easements necessary to facilitate the construction of State Street by condemnation or otherwise, then the Applicant shall construct such improvements.

(ii) In the event the County elects not to use its powers of condemnation to acquire those off-site rights-of-way and/or easements to facilitate the construction of State Street, and no other alternative replacement access (such as the extension of Boone Boulevard eastward to Gosnell Road or the extension of Boone Boulevard westward to Westwood Center Drive) can be provided to the satisfaction of FCDOT and VDOT development on the Property shall be limited as set forth on Proffer 39.

C. Should State Street Option 5D, which bisects the Adventure Play Park, be selected and implemented, the Applicant shall provide an alternate active park design to be determined at the time of FDP approval without the necessity for a PCA or CDPA. The Applicant shall not be required to provide additional park space elsewhere to offset the loss in publically accessible park space resulting from the construction of the Option 5D State Street alignment.

35. Route 7/State Street Intersection Improvement. In the event the Applicant elects to construct State Street as described in Proffer 34, then the Applicant shall design and construct a westbound left-turn lane on Route 7 at State Street coincident with the construction of State Street, subject to VDOT approval. Said improvement will also require the lowering of the grade of Route 7 in order to provide adequate clearance beneath the Silver Line Metro-rail bridge structure.

36. Route 7/Spring Hill Road Intersection Improvement.

A. If not previously constructed by others, the Applicant shall design and construct improvements to the Route 7/Spring Hill Road intersection to provide a second westbound left turn lane on Route 7 and an appropriate receiving lane on Spring Hill Road as may be approved by VDOT. The Applicant shall also provide signal modification at the intersection as directed by VDOT.

B. The site plan and/or public improvement plan for the left turn lane and related signal modifications described in Paragraph A above shall be approved prior to or concurrent with the site plan approval for the first new building to be constructed on the Property, provided there is a street connecting the Property to Spring Hill Road providing access to the new building. The left turn lane and related signal modifications shall be constructed and open to the public prior to the issuance of the first RUP or Non-RUP for the first new building to be constructed on the Property, again provided there is a street connecting the Property to Spring Hill Road providing access to the new building.
37. **Route 7 Improvement.** The Applicant shall provide a contribution toward the construction of access improvements to Route 7, equal to $0.12 for each square foot of building constructed on the Property. Said contribution to Fairfax County shall be made upon site plan approval for each new building and shall be based on the site plan approved GFA for each building.

38. **Spring Hill Road/International Drive/Jones Branch Drive Intersection Improvements.** The Applicant shall provide a contribution toward the construction of improvements to the Spring Hill Road/International Drive/Jones Branch Drive intersection or other road improvements in the Tysons West area equal to $0.08 for each square foot of building constructed on the Property. Said contribution to Fairfax County shall be made upon site plan approval for each new building and shall be based on the site plan approved GFA for each building.

39. **Cumulative Transportation Phasing.** The transportation network which serves the Property also serves adjacent properties referred to as the *Dominion Square West Land Bay* (identified as 2017 Tax Map 29-3 ((1)) 29-3 ((1)) 2C1, 2C2 and 2D) and the *Sunburst Property* (identified as 2017 Tax Map 29-3 ((1)) 2G). As a result, the combined development level that may be permitted on the properties in sum is constrained by the capacity of the surrounding roadway network.

Development on the Property, referenced as the East Land Bay in this Proffer, shall be phased to transportation improvements as follows:

A. Prior to the construction of a street grid connecting the East Land Bay to Spring Hill Road via Boone Boulevard, Roseline Street or Dominion Street and prior to the construction of 1) the connection of Spring Hill Road to Route 7 via State Street or 2) the connection of Spring Hill Road to Gosnell Road via Boone Boulevard:

(i) Coincident with the submission of the first FDP and site plan associated with the first new office or residential building on the East Land Bay and with the submission of every new office and residential FDP and site plan thereafter, the Applicant shall provide a tabulation to LDS and FCDOT that summarizes the amount of cumulative development (existing, approved and proposed) constructed on the East Land Bay, *Dominion Square West Land Bay* and the *Sunburst Property*, and associated peak hour, peak direction trips, individually and in total.

(ii) New development in the East Land Bay shall be limited to:

a. 725,000 GFA of office uses, 250 hotel rooms and 15,000 GSF of retail/service uses; or

b. 660,000 GFA of office uses, 275 residential dwelling units, 250 hotel rooms and 15,000 GSF of retail/service uses; or
B. Following the construction of a street grid connecting the East Land Bay to Spring Hill Road via Boone Boulevard, Roseline Street or Dominion Street, and the construction of the second left turn lane at the Route 7/Spring Hill Road intersection as described in Proffer 36:

(i) The Applicant shall continue to provide cumulative tabulations as set forth in Paragraph A.(i)a.

(ii) Development in East Land Bay shall be permitted to a maximum of:

a. 1,170,000 GFA of office uses, 250 hotel rooms and 15,000 GSF of retail/service uses; or

b. 910,000 GFA of office uses, 350 residential dwelling units, 250 hotel rooms and 15,000 GSF of retail/service uses; or

c. 780,000 GFA of office uses, 500 residential dwelling units, 250 hotel rooms and 15,000 GSF of retail/service uses; or

d. any combination of uses which generate an equivalent or lesser number of peak hour, peak direction, trips than those listed in Subsections (a) – (c) directly above.

C. However, development on the East Land Bay may exceed the development levels set forth in Paragraphs A and B above if the Applicant can demonstrate to FCDOT and VDOT that additional development can be accommodated as is or with either the acceleration of proffered improvements, and/or the provision of alternative/additional improvements. At the time of FDP or FDPA submission for any new development on the East Land Bay that exceeds the limitations set forth in Paragraphs A or B above, the Applicant may submit a supplemental operational analysis to FCDOT and VDOT to assess the impacts of such additional development on the surrounding transportation network. The scope of said operational analysis shall be coordinated with both agencies and reflect updated information/traffic conditions. As part of the analysis, the Applicant may propose an acceleration of proffered improvements and/or the provision of alternative/additional improvements needed to support the level of new development proposed with the FDP or FDPA. Such improvements shall be subject to FCDOT and VDOT approval and the Applicant may provide such alternative/additional improvements without the necessity for a PCA, CDPA and/or FDPA.
(i) If the results of the operational analysis indicate that additional development levels beyond those listed in Paragraphs A or B can be accommodated as is or with either the acceleration of proffered improvements and/or the provision of alternative/additional improvements, then the Applicant may proceed with the development (as reflected in the operational analysis) provided those improvements identified by the operational analysis are constructed prior to the issuance of the first RUP or Non-RUP for the first new building which exceeds the prior levels of development.

(ii) If the Applicant proposes to accelerate any proffered improvements, he may utilize any such funds contributed by others towards those specific improvements if available and/or may request credit for accelerated improvements against proffered contributions for the Tysons Grid of Streets Transportation Fund or the Tysons-wide Transportation Fund.

D. Following the construction of 1) a street grid connecting the East Land Bay to Route 7 via State Street or connecting the East Land Bay to Gosnell Road via Boone Boulevard, and 2) a connection from the East Land Bay to Spring Hill Road and construction of the second left turn lane at the Route 7/Spring Hill Road intersection as described in Proffer 36, development in the East Land Bay shall be permitted to a maximum GFA of 2,045,000 square feet.

E. Should a new connection to the Dulles Toll Road north or south of Route 7 or other new street south of Route 7 be constructed before construction of 1) a connection from Spring Hill Road to Route 7 via State Street or a connection from Spring Hill Road to Gosnell Road via Boone Boulevard and 2) a connection from the East Land Bay to Spring Hill Road, the Applicant may provide an operational analysis as outlined in Paragraph C to determine if additional development levels beyond those listed in Paragraphs A or B can be accommodated.

40. Traffic Signals.

A. The Applicant anticipates the installation of up to six (6) new traffic signals throughout and in the vicinity of the Property. The Applicant shall complete and submit to VDOT warrant studies for these potential new signals at the intersections listed below. Such studies shall include a review of both vehicular and pedestrian volume warrants.

(i) Spring Hill Road/Roseline Street
(ii) Spring Hill Road/Dominion Street
(iii) Commonwealth Street/Boone Boulevard
(iv) State Street/Boone Boulevard
(v) State Street/Route 7
B. Warrant studies shall be completed for these intersections, if such intersections are then existing and provide a connection to the Property, prior to the issuance of the first RUP or Non-RUP for the each new office or residential building constructed on the Property.

C. If a signal is deemed warranted at any of these intersections by VDOT after having reviewed the warrant study and approving the same for installation, then such traffic signals, including pedestrian enhancements as may be required by VDOT, shall be designed, equipped and installed by the Applicant no later than eighteen (18) months after approval of the warrant, utilizing any escrowed contributions for the signal(s) received by the County and any future escrowed contributions received by the County.

D. For any signal warranted by VDOT, the Applicant shall provide VDOT with the requisite traffic signal plans for review and approval. All right-of-way associated with signal equipment (poles, equipment boxes, etc.) on the Property not already dedicated shall be reserved for dedication in fee simple to the Board of Supervisors.

E. If the County, upon request of the Applicant or on its own initiative, determines that such signal installations as proffered will be detrimental to traffic operations, the Zoning Administrator may (1) agree to a later date for completion of the traffic signal installation(s) or (2) release the Applicant from further obligations related to the signal installations.

F. If a signal at any of the identified intersections is not warranted within six (6) months after the issuance of the initial RUP or Non-RUP for the last new building to be constructed on the applicable portions of the Property, then the Applicant's obligation to design and construct such signal is deemed null and void and the Applicant shall instead escrow funds with the County towards the cost of future signalization of any applicable intersection by others. The escrow amount to be provided by the Applicant for each intersection is as follows:

(i) Spring Hill Road/Roseline Street: $104,900
(ii) Spring Hill Road/Dominion Street: $86,800
(iii) Commonwealth Street/Boone Boulevard: $110,900
(iv) State Street/Boone Boulevard: $116,700
(v) State Street/Route 7: $116,200
(vi) Gosnell Road and Boone Boulevard: $138,900
41. **Leesburg Pike Signal Optimization.** Concurrent with the approval of the first site plan for the second (2nd) new building to be constructed on the Property, the Applicant shall contribute a total of $25,000 to Fairfax County to be used to modify the signal timings in the Route 7 corridor between Route 123 and the Dulles Access Road. If at time of site plan submission for the fourth (4th) new building on the Property, signal timing modifications have not been requested by VDOT for the Route 7 corridor, the County may utilize those funds for other transportation improvements/enhancements in the Tysons West South Subdistrict.

42. **Tysons Grid of Streets Transportation Fund.** The Applicant shall make a contribution to the County’s Tysons Grid of Streets Transportation Fund for each market rate residential unit and each square foot of new non-residential space constructed on the Property in keeping with the rates and applicable rate adjustments set forth in the Guidelines for the Tysons Grid of Streets Transportation Fund endorsed by the Board of Supervisors on January 8, 2013 (the “Grid Guidelines”). The Applicant shall receive and deduct credits against the contributions as approved by the County in conformance with the Grid Guidelines. This contribution is not subject to further adjustment outlined in Proffer 73 and shall not apply to any public-use facilities constructed on the Property. The contribution shall be paid on or before the issuance of the initial RUP or Non-RUP for the building based on the actual GFA of non-residential space and/or the actual number of market rate residential units in the building.

Pursuant to the Grid Guidelines, the Applicant has identified in conjunction with the Rezoning those improvements eligible for credit and the amount of credit (in whole or in part) based on its proportional impact on said improvement as determined based on data reflected in the Tysons West CTIA, as well as the Traffic Impact Analysis prepared by Wells + Associates for Dominion Square dated February 3, 2012 as revised through May 2014.

A. The hard and soft costs associated with the lowering of Route 7 to accommodate the State Street intersection improvements beneath the Silver Line Metro-rail bridge structure;

B. Fifty percent (50%) of the hard and soft costs associated with the design and construction of a three lane interim section of State Street between Route 7 and Boone Boulevard;

C. Fifty percent (50%) of the hard and soft costs associated with the design and construction of the section of Spring Way between the West Land Bay’s boundary and Route 7, and

D. In the event the Applicant must obtain off-site rights-of-way and/or easements to construct any of the State Street or Spring Way improvements listed above, then the cost of such acquisition (whether through a cooperative agreement or condemnation) shall also be creditable against the Tysons Grid of Streets Transportation Fund.
43. **Tysons-wide Transportation Contributions – Table 7 Improvements.** The Applicant shall make a contribution to the County’s Tysons-wide Transportation Fund for each market rate residential unit and each square foot of new non-residential space constructed on the Property in keeping with the rates and applicable rate adjustments set forth in the *Guidelines for the Tysons-wide Transportation Fund* endorsed by the Board of Supervisors on January 8, 2013 (the “Tysons-wide Guidelines”). The Applicant shall receive and deduct credits against the contributions as approved by the County in keeping with the Tysons-wide Guidelines. This contribution is not subject to further adjustment outlined in Proffer 73 and shall not apply to any public-use facilities constructed on the Property. The contribution shall be paid on or before the issuance of the initial RUP or Non-RUP for the building based on the actual GFA of non-residential space and/or the actual number of market rate residential units in the building.

Pursuant to the Tysons-wide Guidelines, the Applicant has identified in conjunction with the rezoning application those improvements eligible for credit and the amount of credit (in whole or in part) based on its proportional impact on said improvement as determined based on data reflected in the Tysons West CTIA, as well as the Site Traffic Impact Analysis prepared by Wells + Associates for Dominion Square dated February 3, 2012 as revised through May 2014.

A. **Twenty-five percent (25%)** of the hard and soft costs associated with the construction of the section(s) of Boone Boulevard on the Property; and **Fifty percent (50%)** of the costs associated with the preparation of design plans for the ultimate improvement of Boone Boulevard from Spring Way to State Street.

B. **Eighty percent (80%)** of the hard and soft costs associated with the construction of any section(s) of Boone Boulevard constructed by the Applicant off-site of the Property; and

C. **In the event the Applicant must obtain off-site rights-of-way and/or easements to construct any of the Boone Boulevard improvements listed above, then the cost of such acquisition (whether through a cooperative agreement or condemnation) shall also be creditable against the Tysons-wide Transportation Fund.**

Furthermore, the Applicant may request in-kind credit for the advancement of the design and/or construction of Boone Boulevard (either on or off of the Property) if provided earlier than otherwise required by these Proffers.

44. **Construction Management Plan.** The Applicant shall prepare and implement a construction management plan during construction of each phase of development, as appropriate, so as to ensure safe and efficient pedestrian and vehicle circulation at all times on the Property and on the public roadways adjoining the Property. The management plan for each phase shall specify how sidewalk access will be provided along at least one side of each existing street during the course of construction. The management plans shall identify anticipated construction entrances, construction staging areas, construction vehicle routes and procedures for coordination with FCDOT and/or VDOT concerning construction material deliveries, lane, street or sidewalk closures, off-
street construction worker parking, and/or other construction related activities to minimize disturbance on the surrounding street and sidewalk network. The Applicant shall inform all contractors and subcontractors of the plans for construction related traffic circulation and construction worker parking. Signs providing such information shall be posted at all construction entrances.

Such plan shall be prepared by a qualified professional and submitted for review and comment to the VDOT, FCDOT and LDS prior to issuance of any land development permit or building permit for each phase.

BICYCLE FACILITIES, BUS SHELTERS AND PEDESTRIAN IMPROVEMENTS

45. Bicycle Circulation.

A. In combination with the street and streetscape improvements identified in these Proffers, the Applicant shall provide pavement and striping for on-road bicycle lanes along the Property's frontages with Roseline Street and Boone Boulevard. Such lanes shall typically be four (4) to six (6) feet in width as shown on Sheet C-20 with the final dimension determined at the time of FDP and site plan approval. Bicycle lane striping shall be subject to approval by VDOT.

B. The Applicant shall construct a bicycle trail ten (10) feet in width from Route 7 to Boone Boulevard as generally shown on Sheets C-09 and C-10 of the CDP (the "Cultural Trail"). A portion of the Cultural Trail is be constructed off-site on the adjacent parcel identified as 2016 Tax Map 29-3 ((1)) 5 ("Parcel 5"), provided permission is granted by the Fairfax County Board of Supervisors (the property owner) and Dominion Power (easement holder). The trail shall be constructed concurrently with the construction of other park related improvements described in Proffer 62.

46. Bicycle Parking. The Applicant shall provide a bicycle storage area and bicycle repair station within the base of Building C7 adjacent the bicycle trail as generally shown on Sheets L4-004 and L5-001 of the CDP. The Applicant shall also provide bicycle racks and bike storage areas throughout the Property, the specific locations of which shall be determined at the time of FDP approval. The bike racks shall be a design compatible with the UDG and approved by FCDOT. The total number of bike parking/storage spaces shall be determined in cooperation with the County Bike Coordinator and as specified in the County’s Bicycle Parking Guidelines.

47. Bike Share Facility. The Applicant shall provide space and associated easement or license agreement to accommodate a bike share station in the vicinity of the Roseline Street and the Cultural Trail. The specific location shall be determined at the time of FDP approval for Building C12 and the easement or license agreement shall be provided prior to the issuance of the first RUP for Building C12. In addition, the Applicant shall contribute $20,000 to Fairfax County in support of bike share facilities on the Property. Said contribution shall be made prior to the issuance of the first RUP for Building C12.
48. **Bus Shelters.** Bus shelter locations shall be evaluated for feasibility at the time of FDP and site plan approval in consultation with FCDOT. Identified bus shelter locations shall be primarily located within the landscape amenity panel of the streetscape, and may necessitate adjustments to street tree locations, sidewalks, building zone dimensions and other street furnishings to that shown on the CDP and FDP.

49. **Marked Crosswalks.** Subject to VDOT approval, the Applicant shall install marked pedestrian crosswalks at all signalized intersections adjoining the Property and at locations where the Cultural Trail crosses streets.

50. **Enhanced Off-Site Streetscape.** If not previously provided by others, the Applicant shall enhance/improve the streetscape along Route 7 between Spring Hill Road and the Property's western boundary as generally shown on Sheet L4-004 of the CDP, provided permission to make said enhancements is provided by the owner of adjacent property identified on the 2017 Tax Maps as 29-3 ((1)) 2F at no cost to the Applicant. The streetscape enhancement shall be provided with the construction of the Route 7 streetscape and Public Park 3 being constructed with Building C7.

### PARKING

51. **Zoning Ordinance Requirements.** Parking on the Property shall be provided in accordance with the parking requirements for the PTC District set forth in Sect. 6-509 and Article 11 of the Zoning Ordinance, and as shown on the CDP. The exact number of spaces to be provided shall be refined with approval of the FDPs and determined at the time of site plan approval based on the specific uses, number of residential units and bedroom mix. If changes in the mix of uses or residential bedroom mix result in parking greater than that anticipated on the CDP, the additional parking spaces shall be accommodated within the proposed parking structures, without increasing the height or mass of the parking structures.

52. **Phasing of Parking.** Parking shall be provided in phases concurrent with development of the Property. Parking spaces in excess of the maximum parking ratios set forth in the Zoning Ordinance may be provided in the early phases of development of the Property, provided that at the build-out of the Property, the maximum parking rates are not exceeded. A parking tabulation for the Property shall be provided with each FDP and site plan. Required parking spaces for an individual building need not be provided on the parcel on which the building is located.

53. **Parking Spaces Along Streets.**

   A. On-street parking spaces along the public street frontages shall be constructed as generally shown on the CDP and as may be adjusted at the time of FDP and/or site plan approval. If requested by the County and/or VDOT, signs shall be installed that restrict the use of those public on-street parking spaces. Public on-street parking spaces would be in addition to the total number of parking spaces required by the Zoning Ordinance.
B. The Applicant reserves the right to restrict the use of spaces along any private streets and on any future public streets prior to acceptance in to the VDOT system, through appropriate signage or such other means as the Applicant determines appropriate, that otherwise are not required to satisfy the parking requirements for use as temporary or short term parking, car-sharing parking and/or similar uses.

54. Future Parking Revisions. The Applicant reserves the right to provide parking at revised ratios (ratios referring to the number of parking spaces provided per dwelling unit for residential uses or per square foot of GFA for office and retail uses) as may be permitted by a future amendment to the Zoning Ordinance. Optional use of revised ratios shall not require a CDPA or PCA, provided there is no increase in the size or height of above-grade parking structures.

55. Parking Stipulation.

A. The sale or lease rates of parking spaces by the Applicant shall be "unbundled" from the purchase price or lease rate of the individual dwelling units; meaning a unit’s purchase price or lease rate shall be exclusive of parking costs.

B. The Applicant shall be permitted to install and maintain parking controls and/or fencing on its existing surface parking lots, without the requirement for a FDP, in order to control Metro-related parking by the general public. Pedestrian circulation on the Property shall not be unduly impeded by such fencing.

TRANSPORTATION DEMAND MANAGEMENT

56. Tysons Transportation Management Association. The Applicant shall contribute to Fairfax County funds for the establishment of a transportation management association for the Tysons Corner Urban Center (the "TMA") as outlined below:

A. The Applicant shall make a one-time contribution to the establishment of this future TMA based on a participation rate of $0.10 per gross square foot of new office uses and $0.05 per gross square foot of new residential uses to be constructed on the Property.

B. Twenty five percent (25%) of the total contribution to the TMA shall be paid upon site plan approval for the first new residential, hotel, or office building to be constructed on the Property. The remaining 75% shall be contributed in five (5) equal installments of 15% each and paid at the time of issuance of the first initial RUP or Non-RUP for each of the next five (5) new residential, hotel, or office buildings to be constructed on the Property but in any event no later than ten (10) years from the date of this rezoning approval.

C. The Applicant may, in its sole discretion, join or otherwise become associated with the TMA established for the purpose of administering TDM programs in the Tysons Corner Urban Center and transfer some functions of this TDM Program to the TMA. Further, if determined by FCDOT that a proactive, private TDM
program is no longer necessary, the TDM structure in Proffer 57 may be rendered null and void in whole or in part, without the need for a PCA.

57. **Transportation Demand Management.** The Applicant shall fund, implement and administer a transportation demand management program for the Property as described in this Proffer (the "TDM Program"). It is intended that the first new office or residential building to be constructed on the Property will initiate implementation of what will become a Property-wide TDM program that later buildings to-be-constructed on the Property will join.

A. **Implementation Plan.** The proffered elements of the TDM Program as set forth below are more fully described in the *Dominion Square Transportation Demand Management Plan* prepared by Wells + Associates, Inc. dated May 2, 2014 (the "TDM Plan") as may be amended. It is the intent of this Proffer that the TDM Plan adapt over time to respond to the changing transportation related circumstances of the Property, the surrounding community and the region, as well as to technological and/or other improvements, all with the objective of meeting the trip reduction goals as set forth herein. Accordingly, modifications, revisions, and supplements to the TDM Plan as may be approved by the FCDOT can be made without the need for a PCA provided that the TDM Plan continues to reflect the proffered elements of the TDM Program as set forth below.

B. **Responsible Party.** The Applicant, or any successor other than the UOA or its equivalent, shall remain obligated under this Proffer until such time as three consecutive post Stabilization trip counts reveal that the applicable vehicle trip reduction goals are being met (the "Applicant Control Period"). At the end of the Applicant Control Period, the UOA or equivalent shall become obligated under this Proffer and Applicant, or any successor other than the UOA or equivalent, shall have no further obligation with respect to this Proffer.

C. **Definitions.** For purposes of this Proffer, "Stabilization" shall be deemed to occur one-year following issuance of the last initial RUP or Non-RUP for the final new residential or office building to be constructed on the Property. "Pre-stabilization" shall be deemed to occur any time prior to Stabilization.

D. **Trip Reduction Objective.** The objective of this TDM Program shall be to reduce the vehicle trips generated by new residents and new office tenants of the Property, during weekday peak hours, by meeting the percentage vehicle trip reductions set forth below. These trip reduction percentages shall be multiplied by the total number of vehicle trips that would be expected to be generated by the uses developed on the Property as determined by the application of the Institute of Traffic Engineers, 9th Edition, *Trip Generation* rates and/or equations (the "ITE Trip Generation"), and the number of trips determined by the product of such equation subtracted from the total trips shall be referred to herein as the "Maximum Trips After Reduction". For purposes of this calculation, the maximum number of dwelling units or gross floor area proposed to be constructed in each new residential or new office building on the Property as determined at
the time of FDP approval for each building shall be applied to the calculation described in the preceding sentence. The target reductions shall be as follows:

<table>
<thead>
<tr>
<th>Tysons-wide development level</th>
<th>Buildings C7, C8, C9, C10 and C12 (within 1/8 mile of station)</th>
<th>Building C11 (within ¼ mile of station)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 65 million SF of GFA</td>
<td>45%</td>
<td>35%</td>
</tr>
<tr>
<td>65 million SF of GFA</td>
<td>50%</td>
<td>40%</td>
</tr>
<tr>
<td>84 million SF of GFA</td>
<td>55%</td>
<td>45%</td>
</tr>
<tr>
<td>90 million SF of GFA</td>
<td>58%</td>
<td>48%</td>
</tr>
<tr>
<td>96 million SF of GFA</td>
<td>60%</td>
<td>50%</td>
</tr>
<tr>
<td>105 million SF of GFA</td>
<td>63%</td>
<td>53%</td>
</tr>
<tr>
<td>113 million SF of GFA</td>
<td>65%</td>
<td>55%</td>
</tr>
</tbody>
</table>

The trip reduction goals outlined above are predicated on the achievement of specific development levels within the Tysons Corner Urban Center as anticipated in the Comprehensive Plan. Prior to undertaking trip measurements, the TDM Program Manager ("TPM"), as defined below, shall, in consultation with the County, provide a summary of the then existing development levels in Tysons Corner (based on RUPs and Non-RUPS issued) in order to determine the appropriate vehicle trip reduction goal.

If through an amendment to the Comprehensive Plan, the Board should subsequently adopt a goal for trip reductions that is lower than that committed to in this Proffer, then the provisions of this Proffer shall be adjusted accordingly without requiring a PCA.

E. **Process of Implementation.** The TDM Program shall be implemented as follows, provided that modifications, revisions, and supplements to the implementation process as set forth herein as coordinated with FCDOT can be made without requiring a PCA.

(i) **TDM Program Manager.** The Applicant or UOA shall appoint and continuously employ, or cause to be employed, a TPM for Dominion
Square. The TPM shall be appointed by the Applicant no later than sixty (60) days after the issuance of the first building permit for the first new building to be constructed on the Property. The TPM duties may be part of other duties associated with the appointee. The Applicant shall notify FCDOT and the District Supervisor in writing within 10 days of the initial appointment of the TPM. Thereafter the Applicant or UOA shall do the same within ten (10) days of any change in such appointment. Following the termination of the Applicant Control Period, the UOA shall be responsible for the employment of the TPM.

(ii) **Annual Report and Budget.** The TPM shall prepare and submit to FCDOT an initial TDM Work Plan ("TDMWP") and Budget no later than 180 days after issuance of the first building permit for the first new residential or office building on the Property. Every calendar year thereafter but no later than February 1st, the TPM shall submit an annual report and budget in order to incorporate any new construction on the Property, modify or enhance program elements and establish a budget to cover the costs of implementation of the program for such year ("the Annual Report"). The Annual Report shall include, at a minimum:

a. Details as to the components of the TDM program that will be put into action that year;

b. Any revisions to the budget needed to implement the program for the coming calendar year;

c. A summary of existing development levels in the Tysons Corner Urban Center, as well as those specific to Dominion Square;

d. A determination of the applicable Maximum Trips After Reduction for the Property;

e. Provision of the specific details associated with the monitoring and reporting requirements of the TDM program in accordance with the TDM plan; and

f. Submission of the results of any Person Surveys and Vehicular Traffic Counts conducted on the Property in conjunction with each year's Annual Report.

The Annual Report shall be reviewed by FCDOT. If FCDOT has not responded with any comments within sixty (60) days after submission, then the Annual Report shall be deemed approved and the program elements shall be implemented. If FCDOT responds with comments on the Annual Report, then the TPM will meet with FCDOT staff within fifteen (15) days of receipt of the County's comments. Thereafter, but in any event, no later than thirty (30) days after the meeting, the TPM shall submit such revisions to the program and/or budget as discussed and
agreed to with FCDOT and begin implementation of the approved program and fund the TDM Budget. The expected annual amounts of the TDM Budget are further described in the TDM Plan.

F. TDM Account. The Applicant, through the TPM, shall establish an interest bearing account with a bank or other financial institution qualified to do business in Virginia (the "TDM Account") within 30 days after approval of the initial TDMWP and TDM Budget. All interest earned on the principal shall remain in the TDM Account and shall be used by the TPM for TDM purposes. The TDM Account shall be funded by the Applicant through the TPM. The documents that establish the UOA shall provide that the TDM Account shall not be eliminated as a line item in the governing budget and that funds in the TDM Account shall not be utilized for purposes other than to fund TDM strategies/programs and/or specific infrastructure needs as may be approved in consultation with FCDOT.

Funding of the TDM Account shall be in accordance with the budget for the TDM program elements to be implemented in the following year. In no event shall the TDM Budget for the Property and property associated with RZ 2011-PR-012 exceed a baseline of $158,250 (with adjustments in accordance with Proffer 73). The TPM shall provide written documentation to FCDOT demonstrating the establishment of the TDM Account within ten (10) days of its establishment. The TDM Account shall be replenished annually thereafter following the establishment of each year's TDM Budget. The TDM Account shall be managed by the TPM.

G. TDM Remedy Fund. At the same time the TPM creates and the Applicant funds the TDM Account, the TPM shall establish a separate interest bearing account (referred to as the "TDM Remedy Fund") with a bank or other financial institution qualified to do business in Virginia. Funding of the TDM Remedy Fund shall be made one time on a building by building basis at the rate of $0.40 per gross square foot of new office uses and $0.30 per gross square foot of new residential uses on the Property. Funding shall be provided by the building owners prior to the issuance of the first RUP or Non-RUP for each applicable new building. This amount shall be adjusted in accordance with Proffer 73. Funds from the TDM Remedy Fund shall be drawn upon only for purposes of immediate need for TDM funding and may be drawn on prior to any TDM Budget adjustments as may be required.

H. TDM Incentive Fund. The "TDM Incentive Fund" is an account into which the building owners, through the TPM, shall deposit contributions to fund a multimodal incentive program for initial purchasers/lessees within the Property. In addition, to providing transit incentives, such contributions may also be used for enhancing/providing multimodal facilities within and proximate to the Property. Such contributions shall be made one time on a building by building basis at the rate of $0.02 per gross square foot of new office or residential uses to be constructed on the Property and provided prior to the issuance of the first RUP or Non-RUP for each individual building.
I. TDM Penalty Payments. Penalty payments as may be required pursuant to this Proffer for non-attainment of trip reduction goals shall be secured with a letter of credit or a cash escrow. Prior to the issuance of the first RUP or Non-RUP for each new building on the Property, the TPM shall deliver to the County a clean, irrevocable letter of credit issued by a banking institution approved by the County or escrow cash in an interest-bearing account with an escrow agent acceptable to LDS to secure the building owner’s possible penalty obligations (the "Letter(s) of Credit or Cash Escrow(s)"). The Letter(s) of Credit or Cash Escrow(s) shall be issued in an amount equal to $0.10 for each square foot of new office GFA or $0.05 for each square foot of new residential GFA shown on the approved site plan for each new building on the Property. Until the Letter(s) of Credit or Cash Escrow(s) has been posted, the figures in the preceding sentence shall be adjusted in accordance with Proffer 73. Once the Letter(s) of Credit or Cash Escrow(s) has been posted, there shall be no further adjustments or increases in the amount thereof. The Letter(s) of Credit or Cash Escrow(s) shall name the County as the beneficiary and shall permit partial draws or a full draw. The forgoing stated amount of the Letter(s) of Credit or Cash Escrow(s) shall be reduced by the sum of any and all previous draws under the Letter(s) of Credit or Cash Escrow(s) and payments by the Applicant (or TPM) into the TDM Penalty Fund.

J. Monitoring. The TPM shall verify that the proffered trip reduction goals are being met through the completion of Person Surveys, Vehicular Traffic Counts of residential and/or office uses and/or other such methods as may be reviewed and approved by FCDOT. The results of such Person Surveys and Vehicular Traffic Counts shall be provided to FCDOT as part of the Annual Report. Person Surveys and Vehicular Traffic Counts shall be conducted for the Property beginning one year following issuance of the final initial RUP or Non-RUP for the first new building to be constructed on the Property. Person Surveys shall be conducted every three (3) years and Vehicular Traffic Counts shall be collected annually thereafter until the results of three consecutive annual traffic counts conducted upon Stabilization show that the applicable trip reduction goals for the Property have been met. At such time and notwithstanding the provisions below, Person Surveys and Vehicular Traffic Counts shall thereafter be provided every five (5) years. Notwithstanding the aforementioned, at any time prior to or after Stabilization, FCDOT may suspend such Vehicle Traffic Counts or Person Surveys if conditions warrant.

(i) Remedies and Penalties.

a. Pre-Stabilization. If the Maximum Trips After Reduction for the Property is exceeded as evidenced by the Vehicular Traffic Counts outlined above, then the TPM shall meet and coordinate with FCDOT to address, develop and implement such remedial measures as may be identified in the TDM Plan and Annual Report.
Such remedial measures shall be funded by the Remedy Fund, as may be necessary, and based on the expenditure program that follows:

<table>
<thead>
<tr>
<th>Maximum Trips Exceeded</th>
<th>Remedy Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1%</td>
<td>No Remedy needed</td>
</tr>
<tr>
<td>1.1% to 3%</td>
<td>1% of Remedy Fund</td>
</tr>
<tr>
<td>3.1% to 6%</td>
<td>2% of Remedy Fund</td>
</tr>
<tr>
<td>6.1% to 10%</td>
<td>4% of Remedy Fund</td>
</tr>
<tr>
<td>Over 10%</td>
<td>8% of Remedy Fund</td>
</tr>
</tbody>
</table>

1) If the results of the Vehicular Traffic Counts conducted during Pre-Stabilization show that the trip reduction goals have been met site-wide for three (3) consecutive years in accordance with the goals outlined on the table below, then a portion of the Remedy Fund as outlined in the same table shall be released back to the building owner(s) through the TPM. The amount released will be relative to the amount contributed by those buildings constructed and occupied at the time Vehicular Traffic Counts are conducted. Any funds remaining in the Remedy Fund after such release will be carried over to the next consecutive three (3) year period.

<table>
<thead>
<tr>
<th>Max Trips (Up to 65,000,000 Sq Ft)</th>
<th>Cumulative % Remedy Fund Returned</th>
<th>Max Trips (65-84,000,000 Sq Ft)</th>
<th>Cumulative % Remedy Fund Returned</th>
<th>Max Trips (84-90,000,000 Sq Ft)</th>
<th>Cumulative % Remedy Fund Returned</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meet or Exceed Trip Goal for 3 years by:</td>
<td></td>
<td>Meet or Exceed Trip Goal for 3 years by:</td>
<td></td>
<td>Meet or Exceed Trip Goal for 3 years by:</td>
<td></td>
</tr>
<tr>
<td>0% - 4.9%</td>
<td>30%</td>
<td>0.0% - 4.9%</td>
<td>50%</td>
<td>0.0% - 4.9%</td>
<td>65%</td>
</tr>
<tr>
<td>5% - 10%</td>
<td>50%</td>
<td>5% - 10%</td>
<td>65%</td>
<td>5% - 8%</td>
<td>80%</td>
</tr>
<tr>
<td>10.1% - 15%</td>
<td>65%</td>
<td>10.1% - 13%</td>
<td>80%</td>
<td>8.1% - 10%</td>
<td>90%</td>
</tr>
<tr>
<td>15.1% - 18%</td>
<td>80%</td>
<td>13.1% - 15%</td>
<td>90%</td>
<td>&gt;10%</td>
<td>100%</td>
</tr>
<tr>
<td>18.1% - 20%</td>
<td>90%</td>
<td>&gt;15%</td>
<td></td>
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</tr>
<tr>
<td>&gt;20%</td>
<td>100%</td>
<td></td>
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</tbody>
</table>
2) There is no requirement to replenish the TDM Remedy Fund at any time. Any cash left in the Remedy Fund will be released to the TPM for final distribution to the owners once three consecutive annual Vehicular Traffic Counts conducted after Stabilization show that the trip reduction goals have been met.

b. Stabilization. If the TDM Program monitoring, as evidenced by the Vehicular Traffic Counts outlined above, reveals that the Maximum Trips After Reduction for the Property is exceeded, then the TPM shall meet and coordinate with FCDOT to address, develop and implement such remedial measures as may be identified in the TDM Plan and Annual Report and funded by the Remedy Fund (if available) as may be necessary, commensurate with the extent of deviation from the Maximum Trips After Reduction goal as set forth in accordance with the expenditure schedule outlined above.

1) If the results of the traffic counts conducted upon and subsequent to Stabilization show that the trip reduction goals have been met site-wide for three (3) consecutive years in accordance with the goals outlined on the table above, then any remaining Remedy Funds shall be released back to the building owner(s) through the TPM.

2) If despite the implementation of remedial efforts, the applicable Maximum Trips After Reduction (based on the existing development levels in the Tysons Corner Urban Center) are still exceeded after three (3) consecutive years, then, in addition to addressing further remedial measures as set forth in this Proffer, the TPM shall be assessed a penalty according to the following:
<table>
<thead>
<tr>
<th>Exceeded Trip Goals</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1%</td>
<td>No Penalty Due</td>
</tr>
<tr>
<td>3.1% to 6%</td>
<td>10% of Penalty Fund</td>
</tr>
<tr>
<td>6.1% to 10%</td>
<td>15% of Penalty Fund</td>
</tr>
<tr>
<td>Over 10%</td>
<td>20% of Penalty Fund</td>
</tr>
</tbody>
</table>

3) The County shall be authorized to withdraw the penalty amount directly from the Letter(s) of Credit or Cash Escrow(s) and use such penalty amounts for the implementation of additional TDM Program elements/incentives and/or congestion management associated with Dominion Square, or for other TDM-related improvements or programs within Tysons Corner.

4) The maximum amount of penalties associated with the Property, and the maximum amount the building owners shall ever be required to pay pursuant to the penalty provisions of this Proffer, including prior to and after Stabilization, shall not in the aggregate exceed the amount of the Letter(s) of Credit or Cash Escrow(s) determined and computed pursuant to the provisions of this Proffer. There is no requirement to replenish the Letter(s) of Credit and/or Cash Escrow(s). Any remaining amounts in the Letter(s) of Credit and/or Cash Escrow(s) shall be released to the applicable building owners once three (3) consecutive counts conducted upon Stabilization show that the Maximum Trips After Reduction have not been exceeded.

K. Additional Trip Counts. If an Annual Report indicates that a change has occurred that is significant enough to reasonably call into question whether the applicable vehicle trip reduction goals are continuing to be met, then FCDOT may require the TPM to conduct additional Vehicular Traffic Counts (pursuant to the methodology set forth in the TDM Plan) within 90 days to determine whether in fact such objectives are being met. If any such Vehicular Traffic Counts demonstrate that the applicable vehicle trip reduction goals are not being met, then the TPM shall meet with FCDOT to review the TDM strategies in place and to develop modifications to the TDM Plan to address the surplus of trips.

L. Review of Trip Reduction Goals. At any time and concurrent with remedial actions and/or the payment of penalties as outlined above, the TPM may request that FCDOT review the vehicle trip reduction goals established for the Property and set a revised lower goal for the Property consistent with the results of such surveys and vehicular traffic counts provided for by this Proffer. In the event a revised lower goal is established for the Property, the Maximum Trips After
Reduction shall be revised accordingly for the subsequent review period without the need for a PCA.

M. Continuing Implementation. The UOA through the TPM shall bear sole responsibility for continuing implementation of the TDM Program and compliance with this Proffer in accordance with the timeline established in this Proffer. The UOA through the TPM shall continue to administer the TDM Program in the ordinary course in accordance with this Proffer including submission of Annual Reports.

N. Notice to Owners. All owners of the Property shall be advised of the TDM Program set forth in this Proffer. The then current owner shall advise all successor owners and/or developers of their funding obligations pursuant to the requirements of this Proffer prior to purchase and the requirements of the TDM Program, including the annual contribution to the TDM Program (as provided herein), shall be included in all initial and subsequent purchase documents.

O. Enforcement. If the TPM fails to timely submit a report to FCDOT as required by this Proffer, the TPM will have sixty (60) days within which to cure such violation. If after such sixty (60) day period the TPM has not submitted the delinquent report, then the Applicant or UOA, as applicable shall be assessed a penalty of $100.00 per day not to exceed $36,500.00 for any one incident. Such penalty shall be payable to Fairfax County to be used for multimodal, transit, transportation, or congestion management improvements within the vicinity of the Property, or in consultation with the TPM, for other TDM-related improvements or programs within Tysons Corner.

58. Transportation Demand Management for Retail/Hotel Uses. Certain components of the TDM Plan described in Proffer 57 are applicable to, and will benefit, the proposed retail and hotel uses on the Property. Therefore, the Applicant shall provide an additional TDM program that is tailored to specifically serve the Retail/Hotel Uses (the "Retail/Hotel TDM Program"). In no event will monitoring or penalties be assessed against the retail or hotel uses, which may be established on the Property.

AFFORDABLE/WORKFORCE HOUSING

59. Affordable Dwelling Units. If required by the provisions of Part 8 of Article 2 of the Zoning Ordinance, Affordable Dwelling Units ("ADUs") shall be provided pursuant to said regulations unless modified by the ADU Advisory Board.

60. Workforce Dwelling Units. In addition to any ADUs that may be required pursuant to these Proffers, the Applicant shall also provide for-sale and/or rental housing units on the Property, or off-site as determined at time of FDP submission, in accordance with the Board of Supervisors’ Tysons Corner Urban Center Workforce Dwelling Unit Administrative Policy Guidelines dated June 22, 2010 (the "WDU Guidelines"). Workforce Dwelling Units ("WDUs") shall be provided such that the total number of ADUs, if any, plus the total number of WDUs results in not less than twenty percent
(20%) of the total residential units constructed as part of the Proposed Development. The 20% applies to the total number of dwelling units to be constructed on the Property plus any WDU's that may be provided off-site. If ADUs are provided in the development, both the ADUs and the ADU bonus units shall be deducted from the total number of dwelling units on which the WDU calculation is based.

The WDU's generated by each residential building on the Property shall be provided within said building or off-site. Any WDU's provided off-site shall be located within the Tysons Corner Urban Center or as approved by DPZ. In addition, the Applicant reserves the right to consolidate the WDU's into one or more buildings with the build-out of the Property and thereby increase the number of WDU units in one or more buildings beyond twenty percent (20%) with a corresponding decrease in the number of WDU units in the other buildings. The Applicant reserves the right to provide WDU's associated with for-sale condominiums as rental units in the residential rental buildings on the Property, provided that RUP's shall not be issued for more than seventy-five percent (75%) of the total number of condominiums until such time as RUP's have been issued for at least seventy-five percent (75%) of the associated WDU's in the rental building, or such later date as may be determined by the Zoning Administrator pursuant to Proffer 70. The WDU's in each building shall have a bedroom mix similar to that provided in the market rate units in such building. If the WDU's are constructed in a stand-alone building on or off-site, the bedroom mix of the WDU's shall be similar to the bedroom mix of the market rate units of the same unit type on the Property and such WDU's will include all of the income tiers as set forth in the WDU Guidelines. Additionally, in the event that parking spaces are guaranteed to be made available for lease to individual market rate dwelling units, at least one (1) parking space shall be made available for lease by each ADU and/or WDU in the development.

Notwithstanding the foregoing, should the Board of Supervisors' policies related to Workforce Dwelling Units in Tysons Corner be amended, the Applicant reserves the right, at its sole discretion, to opt in to the new policies, in part or in whole, without the need for a PCA and, if the Applicant so opts into any such new policies, the provisions of this Proffer which relate to the new policies of the Board of Supervisors which Applicant has elected to opt into shall no longer be effective. Furthermore, the Applicant reserves 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 WDU's following approval of these Applications. Such an agreement shall be on terms mutually acceptable to both the Applicant and Fairfax County and may occur after the approval of these Applications. 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 WDU's shall be administered solely in accordance with such an agreement and the provisions of this Proffer as it applies to WDU's shall become null and void. Such an agreement and any modifications thereto shall be recorded in the land records of Fairfax County.

61. Non-Residential Contribution for Workforce Housing. For all non-residential development, excluding ground level commercial retail/services and public uses, the Applicant shall select, within their sole discretion, one of the following two options for
contributing toward the provision of affordable and/or workforce housing within Tysons Corner. These contributions shall be paid to the Board of Supervisors at the time of issuance of the initial Non-RUPs for office and hotel buildings on the Property (excluding any ground level retail/service uses and public uses) and shall be deposited in a specific fund to be used solely for the provision of affordable and/or workforce housing within Tysons Corner. The options shall consist of either (i) a one-time contribution of $3.00 for each square foot of GFA of office or hotel use, or (ii) an annual contribution of $0.25 for each square foot of GFA of new office or hotel use continuing for a total of sixteen (16) years. Should the Board of Supervisors adopt new policies for non-residential affordable housing contributions in Tysons Corner, the Applicant may, within its discretion, elect to comply with those policies in lieu of the contributions described herein without the necessity of a CDPA or PCA.

**PARK AND RECREATIONAL FACILITIES**

62. **Publicly Accessible Parks and Recreational Facilities.** The Applicant shall provide park spaces and recreational facilities on the Property that will be open and accessible to the general public as depicted on the CDP. For areas that are not specifically dedicated to the Fairfax County Park Authority ("FCPA") or Board of Supervisors for park purposes, the Applicant shall retain the area(s) in fee simple, record public access easement(s) ensuring that the park space and Cultural Trail are open to the public for periods of times consistent with urban parks subject to usual and customary rules and regulations, and provide for perpetual private maintenance. The Applicant shall also enter in to an agreement with FCPA to allow FCPA activities and events within the publicly accessible park areas. A way-finding and signage system shall be developed in coordination with FCPA at the time of site plan or CSP approval and installed by the Applicant to ensure the public can easily identify and access all publicly accessible park spaces. The construction of the publicly accessible parks shall occur in phases in accordance with the Phasing Exhibits with adjustments as provided in these Proffers and as may be approved with each FDP.

The following parks and facilities shall be provided as generally shown on the CDP, with more specific details provided at the time of FDP approval. Additional or substitute recreational facilities and park furnishings to those shown on the CDP, or listed below, may be approved with the FDP and/or final site plan provided such facilities result in an equivalent or enhanced quality of recreational opportunities and are in substantial conformance with the quality and character of that shown on the CDP.

A. **Public Park 3 – C7 Plaza.** This street level plaza located adjacent to Route 7 and the Cultural Trail involves three components including property adjacent to Building C7 (Public Park 3), property within the VDOT right-of-way (Public Park 3a) and property off-site on property identified on the 2017 Tax Maps as 29-3 ((1)) 2F (Public Park 3b). The plaza adjacent to Route 7 will act as an urban plaza trailhead of the Cultural Trail park and potential future park by others on adjacent Parcel 2F. This area shall include benches, bike racks, and way-finding signage as conceptually shown on Sheet L4-004 of the CDP. The Applicant’s obligation to construct Park 3b is contingent on permission to make said improvements
being provided by the owner of adjacent property of Parcel 2F at no cost to the Applicant. More specific details shall be determined at time of FDP approval for Building C7, and construction shall be concurrent with the development of Building C7.

B. Public Park 4 – C7/C8/C10 Skypark - This elevated public destination skypark of approximately 30,360 square feet shall provide a highly activated space geared toward exercise, games and sports as conceptually shown on Sheet L4-004 of the CDP. Park features include an overlook, exercise walkway, sand volleyball court, multi-use lawn, bocce courts, game tables, light sculpture, landscaping, pergola and movable furniture. Public elevator access to the skypark and way-finding graphics at the street level shall be provided along the Cultural Trail Park at Building C10 and along Commonwealth Street in Building C8. A public stairway shall be provided from the Cultural Trail Park at Building C7 to enhance public accessibility. More specific details shall be determined at time of FDP approval for Buildings C7, C8 and C10.

Construction and public access to the portion of the skypark west of Commonwealth Street shall be provided with the development of Building C7 or C10, whichever occurs second. Construction and public access to the portion of the skypark east of Commonwealth Street shall be provided with the development of Building C8. The skypark bridge, with interactive light feature, spanning Commonwealth Street shall be constructed with the construction of the third of Buildings C7, C8 or C10.

C. Public Parks 5 and 6 – Cultural Trail – This combination of linear spaces unite to form an approximate 49,000 square feet linear park between Route 7 and Boone Boulevard, providing a multi-modal trail for pedestrians and cyclists. The Cultural Trail park is located on the Property and adjacent property identified on the 2017 Tax Maps as 29-3 ((1)) 5 (“Parcel 5”) which also serves as an easement for Dominion Power transmission lines. Construction on Parcel 5 is contingent on permission being granted at no cost to the Applicant. This linear open space will feature improved grading, a 10 foot wide multi-modal trail with two foot shoulders on both sides, enhanced paving, specialty crosswalks, seasonal landscaping for yearlong interest, interpretative signage, way-finding signage, benches/seating areas, bicycle parking/storage, plaza play elements, fenced dog park, lighting, and will provide opportunities for art festivals and activities as conceptually shown on the CDP. It is anticipated that the trail will replace and enhance a trail planned for construction by Fairfax County on Parcel 5. It is further anticipated that the future widening of Roseline Street between Commonwealth Street and the western edge of the Cultural Trail will result in some reduction in the size of the Cultural Park adjacent to Roseline Street. The design for this reduced land area is provided on Sheet L4-004.

The Cultural Trail Park shall be constructed concurrently with the development of adjacent buildings. More specific details shall be determined at time of FDP approval for the applicable buildings. The section between Route 7 and Dominion
Street shall be constructed concurrent with the development of Building C7 or C10, whichever occurs last. The section between Dominion Street and Roseline Street shall be constructed concurrent with the development of Building C12. The section between Roseline Street and Boone Boulevard shall be constructed with the construction of Commonwealth Street.

The Applicant shall enter into an agreement with FCPA, in a form acceptable to the County Attorney, setting forth the details of the perpetual maintenance responsibilities of the Cultural Trail. Fairfax County shall be responsible for maintenance and future replacement of the multi-purpose trail and the Applicant shall be responsible for maintenance and future replacement of all other facilities/amenities and landscaping adjacent to the multi-purpose trail.

D. Public Park 7 – Athletic Field and Adventure Play Park – The Applicant shall construct a recreation-focused park on approximately 3 acres as generally shown on Sheet L4-005 of the CDP and shall include the following facilities:

(i) One full-service rectangular athletic field with a synthetic all-weather turf, field lights and fencing consistent with FCPA specifications (the “Athletic Field”). The Athletic Field dimensions shall be 210 feet by 330 feet, including overrun areas (with the exception of a reduced overrun area at the northeastern corner of the field). It is anticipated that this Athletic Field could be enlarged with the future redevelopment of adjacent parcels. Provision of the Athletic Field shall satisfy the athletic field expectation for the Property and property/development associated with RZ-2010-HM-012.

(ii) An adventure play area with play equipment set in a natural environment, berms and boulders for climbing, natural and traditional playground equipment, lighting and benches (the “Adventure Play Area”).

The Applicant shall dedicate Public Park 7 in fee-simple to the FCPA for park purposes following completion of the improvements listed above. Such dedication shall be without any cost to the County or obligation to join any applicable owner’s association. Dedication and construction of the Athletic Field improvements shall occur prior to either (a) issuance of the first RUP or Non-RUP for the fifth new building to be constructed on the combined East and West Land Bays; or (b) concurrent with the construction of Boone Boulevard or Roseline Street on the East Land Bay; whichever of (a) or (b) occurs first. Dedication and construction of the Adventure Play Area shall occur concurrently with the construction of Boone Boulevard or Roseline Street on the East Land Bay, whichever occurs first. The Applicant reserves the right to reserve easements over the area to be dedicated that may be reasonably necessary to support the development of the remainder of the Property. Such easements shall not unreasonably interfere with the use of the area to be dedicated as a public park.
The Applicant shall enter into an agreement with FCPA, in a form acceptable to the County Attorney, setting forth the details of the dedication, facility construction and perpetual maintenance responsibilities of the park. FCPA shall be responsible for maintenance and future replacement of the athletic field, fencing around the field, and standard FCPA field lights and the Applicant shall be responsible for maintenance of any non-standard field lights and the land outside the athletic field fencing including the landscaping, adventure play equipment and other facilities. The Applicant shall provide and maintain parking and public restrooms for users of the park within Building C10, or an alternate convenient location on the Property as determined as the time of FDP approval.

E. Park 8 – Vesper Trailhead Park - The Applicant shall construct a trailhead park of approximately 33,000 square feet on the south side of Boone Boulevard. Park features shall include benches, naturalized landscaping, shade structures, adult fitness equipment, public art, and way-finding signage identifying the trailhead for the Old Courthouse Spring Branch trail network as generally shown on Sheets L3.0 and L-3.4 of the CDP. Improvements shall be constructed concurrent with the construction of Boone Boulevard.

The Applicant shall dedicate the portion of the Vesper Trailhead Park located on the Property in fee-simple to the FCPA for park purposes following completion of the improvements listed above. Such dedication shall be without any cost to the County or obligation to join any applicable owner’s association. The Applicant reserves the right to reserve easements over the area to be dedicated that may be reasonably necessary to support the development of the remainder of the Property. Such easements shall not unreasonably interfere with the use of the area to be dedicated as a public park.

It is anticipated that the soft and hard costs associated with the Vesper Trailhead Park improvements will be shared between the Applicant and the applicant/successor of RZ 2011-HM-027, through a private agreement between the two parties. However, in the event the applicant/successor of RZ 2011-HM-027 provides a contribution to Fairfax County or FCPA that does not go toward sharing the costs of the Vesper Trailhead Park improvements with the Applicant, the Applicant shall construct the Alternative Trailhead Park as shown in Sheet L4-005 with benches, naturalized landscaping, a shade structure, and way-finding signage.

The Applicant shall enter into an agreement with, FCPA, in a form acceptable to the County Attorney, setting forth the details of the dedication, facility construction and perpetual maintenance responsibilities of the park. FCPA shall be responsible for maintenance the Trailhead Park and future replacement of all park features.

63. Private Amenities and Recreation Facilities for Residents, The Applicant shall provide on-site recreational facilities for the future residents of the Property. In fulfillment of requirements pursuant to Paragraph 2 of Section 6-508 of the Zoning Ordinance
regarding developed recreational facilities, the Applicant shall expend a minimum of $1,800.00 per market-rate and workforce residential unit on such recreation facilities. Prior to final bond release for each residential building, the balance of any funds not expended on-site, as determined by LDS shall be contributed to the FCPA for the provision of recreation facilities serving Tysons Corner.

The specific facilities and amenities to be provided for each individual residential building or shared between two or more buildings, which shall be for the use and enjoyment of those building(s) residents, shall be determined at the time of FDP approval. Amenities to be provided may include but not be limited to:

A. Private exterior recreational areas/courtyards on the upper level of the parking podiums and/or on the rooftops, as determined at the time of FDP approval, with seating areas, specialty landscaping, lawn and/or shaded areas and hardscape areas.

B. Private exterior recreational area on the roof or podium level with facilities such as a swimming pool, lounge deck, and shade structure;

C. Interior fitness center(s) with exercise equipment such as stationary bikes, treadmills, weight machines, free weights, etc.; and

D. Clubroom(s) for resident gatherings and/or media/entertainment center.

PUBLIC FACILITIES

64. Public Use.

A. The Applicant shall dedicate in fee simple to the Board of Supervisors an approximate 15,718 square foot area of the Property for public use as a Dominion Virginia Power substation, as identified on Sheet S-3 of the CDP (the “Substation Property”).

B. Dedication of the Substation Property shall occur seven (7) months after the Applicant receives written notice from Fairfax County by certified mail of the request for dedication provided: (i) the Property has obtained approval, beyond any applicable appeal period, of this Rezoning; (ii) subdivision of the Substation Property has been approved by Fairfax County and the Deed of Subdivision is fully approved by Fairfax County, executed by all necessary parties, and is released by Fairfax County for recordation; and (iii) Fairfax County and Dominion Virginia Power have provided the necessary easements/dedications/permission to permit the construction of Dominion Street, Roseline Street, and Boone Boulevard across Parcel 5 at no cost to the Applicant, other than legal and engineering fees related to easement preparation; however in no event shall dedication of the Substation Property occur before March 1, 2018.

C. Simultaneously with the dedication, the Applicant shall further grant to the Board of Supervisors and/or Dominion Virginia Power, in a form and substance
acceptable to the Board of Supervisors and Dominion Virginia Power, necessary temporary construction staging and access easement(s), transmission and distribution line easements, as well as an easement to accommodate the temporary relocation of the Vesper Trail, as shown on Sheet S-3, to accommodate the construction, operation and maintenance of the Substation and associated transmission and distribution facilities, pursuant to terms to be agreed upon by the all parties.

D. Stormwater management for the Substation Property shall be provided in a combination of facilities on and off the Substation Property.

(i) On an interim basis, stormwater management shall be provided in a combination of urban bio-retention boxes on the Substation Property and a rain garden or infiltration area located on Tax Map 29-3 ((1)) 5 south of the Substation Property (or comparable facilities as determined at the time of FDP approval for the Substation). Such facilities are to be provided by Dominion Virginia Power. The Applicant shall provide infiltration testing to Dominion to aid in the design process, provided permission to enter and test on Parcel 5 is granted.

(ii) On a permanent basis, when Commonwealth Street is constructed by the Applicant adjacent to the Substation, the Applicant shall provide additional stormwater management facilities, such as bio-retention landscape areas (or comparable facilities as determined at time of FDP) to augment the interim facilities, at no cost to Dominion.

E. Any further zoning or engineering approvals for the Substation, as well as construction of the substation shall be the responsibility of others and with no cost to the Applicant. All necessary documents requiring authorization from the Applicant, its successors or assigns, for filing any requisite zoning, special exception, FDP, subdivision, and site plan applications to gain approval of the substation use by others shall be provided by the Applicant upon demand by Fairfax County.

65. **Public School Contribution.** Per the Residential Development Criteria Implementation Motion adopted by the Board of Supervisors on September 9, 2002, and revised July, 2006, the Applicant shall contribute $12,262 per expected student (based on a ratio of 0.112 students per residential unit) to the Fairfax County School Board to be utilized for capital improvements to schools that serve the Tysons Corner area. Such contribution shall be made on or before the issuance of the first RUP for each residential building on the Property and shall be based on the actual number of dwelling units built in each building.

If, prior to site plan approval for a respective residential building, Fairfax County should modify, on a county-wide basis, the expected ratio of students per subject multi-family unit or the amount of the contribution per student, the amount of the contribution shall be modified for that building to reflect the then current ratio and/or contribution. This
contribution is not subject to the provisions of Proffer 73. If the County should decrease the ratio or contribution amount, the amount of the contribution shall be decreased to reflect the current ratio and/or contribution.

66. **Fire Department Contribution.** The Applicant shall contribute $20,000 to Fairfax County for the cost of emergency vehicle preemption devices on two traffic signals in the vicinity of the Property. Fifty percent (50%) of the contribution shall be paid upon site plan approval for each of the first two new residential or office buildings to be constructed on the Property.

**STORMWATER MANAGEMENT**

67. **Stormwater Management.**

A. Stormwater Management ("SWM") measures for the Property shall be designed to protect receiving waters downstream of Tysons Corner by reducing runoff from impervious surfaces using a progressive approach. This progressive approach shall, to the maximum extent practicable, subject to the determination of LDS, retain on-site and/or reuse the first inch of rainfall. Proposed SWM and Best Management Practice ("BMP") facilities shall follow a tiered approach as identified by the County which may include infiltration facilities (where applicable), rainwater harvesting/detention vaults, runoff reducing and other innovative BMPs.

Plans submitted subsequent to this rezoning shall identify the use of certain Low Impact Development ("LID") techniques that will aid in runoff volume reduction and promote reuse throughout the site. As a part of the LID techniques proposed, the Applicant shall provide green roofs both intensive and/or extensive, bio-retention (traditional and urban) areas, soil amendments, dry swales, pervious hardscapes/streetscapes, and infiltration.

Additionally, the SWM facilities shall be designed to accommodate not just the pre-developed (existing) peak release rates, but also strive to preserve and/or improve the pre-developed (existing) runoff volumes and reduce pollutant runoff as contemplated within the stormwater management-related credits of the project’s registered version, or the most current version, of the U.S. Green Building Council’s applicable Leadership in Environmental Education and Design (LEED®) rating system (e.g., for LEED-NC 2009, the Stormwater Design-Quantity Control and Stormwater Design-Quality Control credits [Sustainable Sites 6.1 and 6.2]). The above noted SWM Facilities shall be designed, to the maximum extent practicable, to meet the requirements of the stormwater management-related credits of the project’s registered version or the most current version of the U.S. Green Building Council’s applicable LEED rating system for each building/phase of the development based upon the LEED Boundary identified with each building/phase.
B. At the time of each FDP, the Applicant shall provide calculations for that phase showing the proposed volume reductions and shall work cooperatively with LDS and DPZ to ensure that the stormwater management measures that would be sufficient to meet the requirements of the aforementioned LEED credits will be provided and that the first inch of rainfall will be retained or reused to the maximum extent practicable. Supporting information shall be included, as part of each FDP submission, that is of sufficient detail, subject to LDS's determination in coordination with the Environment and Development Review Branch of DPZ, to demonstrate the viability of the proposed stormwater management strategy for the area subject to the FDP. This information shall include the following:

(i) For any BMP involving infiltration of water into the ground, soil testing information documenting that the soil will be able to support the proposed infiltration measure(s).

(ii) For any measure involving storage and reuse of stormwater runoff, documentation supporting assumed levels of water usage.

C. The requirements of Paragraph B may be met on an individual building basis (to include consideration of any associated parking, roadway and/or courtyard areas) or be based upon the total area of the Property. Extended detention facilities and extended release techniques may be used to augment the proposed volume reductions. It is further understood that interim or temporary SWM and BMP measures may be required during any interim phase of the Proposed Development.

Each FDP shall include the location and preliminary design of the SWM facilities including the access points to underground vaults. Access points, detailed at the time of FDP, shall be located outside of the landscape amenity panel and sidewalk zone of the streetscape.

D. With each subsequent site plan, the Applicant shall provide refined calculations illustrating conformance with the proposed volume reductions shown on the FDP. The specific SWM facilities shall be determined at the time of site plan, and as may be approved by the LDS. While it is anticipated that compliance with the goal of retaining and/or reusing the first inch of rainfall and meeting the requirements of the aforementioned LEED credits will be confirmed at site plan by utilizing the proposed retention credits identified by the County as part of its stormwater spreadsheet, the Applicant reserves the right to utilize any combination of LID measures (existing and future) to meet this goal, subject to the review and approval of LDS. Similarly, if all other County suggested stormwater alternatives have been attempted, the Applicant reserves the right to over detain the runoff from a one-inch rainfall to a release rate that mimics that of a "good" forested condition.

Where it is the Applicant's intent to use a rainwater harvesting system ("RWHS") for stormwater credit, variations in reuse water demand may create fluctuations in
draw down of the RWHS tank(s). If storage time will exceed 10 days, due to seasonal variation in demand, the Applicant shall have the right to discharge excess volumes off site during non-rainfall periods in a manner and at release rates as allowed by the PFM or as approved by the Director of LDS. To the extent practicable, such discharges shall mimic release rates from a good forested condition for a significant majority of rainfall events, and/or excess volume shall be directed to other facilities using a “treatment train” approach, if possible, as approved by the Director of LDS. If for any reason the designed dedicated end use(s) becomes unavailable because of some change, the Applicant shall provide an approved alternative end use or install a properly designed BMP treatment system to achieve runoff reduction and treatment of the runoff.

68. **Tree Replacement.** As shown on the CDP, the Applicant is requesting a modification of PFM Section 12-0505.6B to allow for trees located above any proposed percolation trench or bio-retention area to count toward the 10-year tree canopy requirement. In the event that any of the said trees may need to be removed for maintenance or repair of those facilities, the Applicant shall replace removed trees as determined by the UFMD to sustain the 10-year canopy.

**MISCELLANEOUS**

69. **Environmental Site Assessment.** Prior to FDP approval for each of building, the Applicant shall submit a Phase I environmental site assessment to the Chief of EDRB identifying any areas in need of remediation due to automobile dealership use and establishing a plan and timeline for remediation. If the Phase I environmental site assessment concludes that an additional Phase II study of the Property is warranted, the Applicant shall complete said study and provide the results to the Chief of EDRB. The Applicant shall implement any requirements required by law.

70. **Zoning Administrator Consideration.** Notwithstanding the foregoing, upon demonstration by the Applicant that, despite diligent efforts or due to factors beyond the Applicant’s control, the required transportation, publicly accessible park areas, athletic field improvements, or other proffered improvements 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, necessary easements, site plan approval, etc.) beyond the timeframes specified, the Zoning Administrator may agree to a later date for completion of these improvements.

71. **Condemnation Procedures.** The development of the Property in accordance with these Proffers anticipates the acquisition of property, rights-of-way and/or easements from parcels that are not part of the Property (collectively referred to as the “Off-Site Parcels”). Unless the Proffer states otherwise, the Applicant shall use its good faith efforts and offer a reasonable fair market value for said property, right-of-way and/or easements. In the event the Applicant is not able to acquire the property, rights-of way and/or easements from the Off-Site Parcels necessary to fulfill the obligations described herein, the Applicant shall demonstrate its efforts in writing and submit a written request
to Fairfax County to acquire the property, rights-of way and easements by means of its condemnation powers.

In conjunction with any such request, the Applicant shall forward to the appropriate County agency: (a) plat, plans and profiles showing the necessary property, rights-of way and/or easements to be acquired; (b) an appraisal, prepared by a MAI (Member of the Appraisal Institute) independent appraiser approved by the County, of the value of the property, rights-of way and/or easements to be acquired and of all damages, if any, to the residue of the Off-Site Parcel; (c) a sixty (60) year title search certificate of the Off-Site Parcel from which the property, rights-of way and/or easement is to be acquired; and (d) cash in an amount equal to appraised value of the property, rights-of-way and easements and of all damages to the residue of the Off-Site Parcel; and (e) a copy of written offers and counteroffers and evidence of owners refusal of such offers and counteroffers. In the event the Owner of the Off-Site Parcel is awarded more than the appraised value of the Off-Site Parcel and of the damages to the residue in a condemnation suit, the Applicant shall pay the amount of the award in excess of cash amount to the County within fifteen (15) calendar days of said award. It is understood that the Applicant upon demand shall pay all other costs incurred by the County in acquiring the easements to the County.

Prior to and during any potential condemnation proceedings, the Applicant, its successors and assigns, shall be permitted, at its own risk, to submit, process and receive approval of the Site Plan and related subdivision plat(s), easement plats, development permits, building plan approvals and building permits for other portions of the Property.

72. **Metrorail Tax District Buyout for Certain Residential Uses.** At least sixty days prior to registration with the Common Interest Community Board of any residential condominium documents that would change the use of all or any portion of the Property that either i) is zoned to permit multi-family residential use but is not yet used for that purpose or ii) from use as a multi-family residential real property that is primarily leased or rented to residential tenants or other occupants by an owner who is engaged in such a business, in either case therefore taxable for purposes of the now existing Phase I Dulles Rail Transportation Improvement District (the "Phase I District") to a use that is not subject to the Phase I District tax, the Applicant shall provide a written notice to the Director of the Real Estate Division of the Fairfax County Department of Tax Administration advising that the Applicant intends to register such condominium documents for that portion of the Property. Prior to registering the condominium documents, the Applicant shall pay to Fairfax County a sum equal to the then-present value of Phase I District taxes estimated by the County to be lost as a result of that change in use.

73. **Adjustment in Contribution Amounts.** All monetary contributions, except as may be further specified in these Proffers, shall adjust on a yearly basis from the base month of January 2019 and change effective each January 1 thereafter, based on changes in the Consumer Price Index for all urban consumers [1982-84=100] (not seasonally adjusted) ("CPI-U"), both as permitted by VA. Code Ann. Section 15.2-2303.3.
74. **Advanced Density Credit.** Advanced density credit is reserved consistent with the provisions of Par. 4 of Sct. 2-308 of the Zoning Ordinance for all eligible dedications described herein or as may be required by Fairfax County or VDOT.

75. **Severability.** Pursuant to Section 18-204 of the Zoning Ordinance, any portion of the Property may be the subject of a PCA, Special Exception ("SE"), Special Permit ("SP"), or 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.

76. **Successors and Assigns.** These Proffers will bind and inure to the benefit of the Applicant and their 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 the owners from time to time of any portion of the Property during the period of their ownership. Once portions of the Property are sold or otherwise transferred, the associated proffers become the obligation of the purchaser or other transferee and shall no longer be binding on the seller or other transferor. With respect to any portion of the Property subject to a COA, the COA shall have liability for performance of any applicable proffers, but not the individual condominium owners.

77. **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 NEXT PAGE]
APPLICANT/TITLE OWNER OF
TAX MAP 29-3 ((1)) 3B.

CARS-DB1, L.L.C., a Delaware limited liability company

By: Capital Automotive Real Estate Services, Inc., its Manager

By: Jay M. Ferriero
Its: President and CEO

[SIGNATURES CONTINUE ON NEXT PAGE]
TITLE OWNER OF
TAX MAP 29-3 ((1)) 5 PT.

THE BOARD OF SUPERVISORS OF FARFAK
COUNTY, VIRGINIA

By: Edward L. Long, Jr.
Its: County Executive

[SIGNATURES END]
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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 owner/applicant, for itself and its successors and/or assigns (hereinafter collectively referred to as the “Applicant”), hereby proffers that the development of the parcel under consideration and shown on the Fairfax County 2017 Tax Maps as 29-3 ((I)) 2G (the “Property”) shall be in accordance with the following conditions if, and only if, rezoning applications 2011-HM-027 (the “Rezoning”) is granted.

GENERAL

1. **Conceptual Development Plan.** The Property shall be developed in substantial conformance with the Sunburst at Spring Hill Metro Conceptual Development Plan (“CDP”) originally dated August 23, 2011 and revised through August 25, 2017, prepared by VIKAD Incorporated, WDG Architecture, PLLC, and LandDesign Inc. as may be further modified by these Proffers. The CDP includes an Interim Plan and a Full Build-Out Plan. The Interim Plan represents redevelopment within the constraints of an existing parking easement benefiting an adjacent property owner (the “Parking Easement”). The Full Build-Out Plan represents the full build-out of the Property once the Parking Easement is terminated. The CDP also includes two options; Option A represents the all residential proposal and Option B represents the mixed residential and office proposal. The Applicant reserves the right to develop in accord with either the Interim Plan and/or the Full Build-Out Plan and either of the two Options A and B.

2. **Proffered CDP Elements.** It shall be understood that the proffered elements of the CDP are limited to the grid of streets, general location of the points of access, general location of the buildings, general mix of uses, maximum gross floor area (“GFA”), maximum building heights, build-to-lines, amount, and general quality and character of the streetscape (the “Proffered Elements”). Other elements of the CDP may be adjusted or modified with approval of future Final Development Plans (“FDPs”) in accordance with the provisions set forth in Sect. 16-402 of the Fairfax County Zoning Ordinance (the “Zoning Ordinance”).

3. **Minor Modifications.** Minor modifications to the Proffered Elements of the CDP may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the CDP without requiring approval of a Conceptual Development Plan Amendment ("CDPA") provided such changes are in substantial conformance with the CDP as determined by the Fairfax County Zoning Administrator (the “Zoning Administrator”). Building envelopes and the number of units, rooms, floors and square footage within and among buildings may be adjusted as set forth on the CDP and in these Proffers, as long as (i) the building setbacks from the...
property lines as shown on the CDP are maintained; (ii) the overall minimum and maximum number of residential units and the maximum building heights comply with those shown on the CDP; and (iii) the redevelopment otherwise is in substantial conformance with the CDP and these Proffers.

4. **Declarations/Owners Associations.** The Applicant shall cause the recordation of an umbrella owners association ("UOA") or the equivalent in the form of one or more reciprocal easement and/or joint maintenance and/or joint development agreements, and other governance documents as necessary (collectively referred to as "UOA or equivalent"), to provide for various proffer and maintenance obligations, including but not limited to, implementation, administration and funding of the TDM Program as hereinafter defined, maintenance of the private streets and sidewalks, streetscapes and furnishings therein, publicly accessible park areas and any private utility systems. Such governance documents shall be submitted to the Office of the County Attorney prior to the issuance of the first Residential Use Permit ("RUP") or Non-Residential Use Permit ("Non-RUP") for the second building to be constructed on the Property to ensure they provide for the various proffers and maintenance obligations not otherwise covered by separate agreement with Fairfax County (the "County") and/or the Virginia Department of Transportation ("VDOT"). Said UOA or equivalent may be expanded to include other nearby properties.

**PROPOSED DEVELOPMENT**

5. **Proposed Development.** The maximum gross floor area ("GFA") permitted on the Property is 1,362,370 square feet under Option A and 1,301,170 square feet under Option B (the "Proposed Development").

Development of the Property may include any use permitted in the Planned Tysons Corner Urban ("PTC") District, subject to limitations in Section 6-505 of the Ordinance, the development tabulations on Sheet C-02 of the CDP (the "Development Tabulations") and these Proffers. The retail category provided in the Development Tabulations may include any non-residential use permitted in the PTC District, exclusive of hotel and office, subject to the Use Limitations in Sect. 6-505, or uses accessory to the primary use. The GFA allocated to the retail category in each building as shown in the Development Tabulations may be shifted between buildings without the need for a PCA or CDPA. The type, extent and location of all retail uses shall be provided with the submission of each FDP.

Uses allowed by special exception or special permit in the PTC District may be authorized through a separate special exception or special permit process without the need for a Proffered Condition Amendment ("PCA") or CDPA, provided the use is in general conformance with the approved CDP.

6. **Existing and Interim Uses and Development.**

A. **Existing Development.** The Property is developed with existing structures which contain approximately 84,957 gross square feet and associated surface
parking/storage lots (collectively, the "Existing Development"). The Existing Development includes a hotel and a separate retail/eating establishment structure and is shown on Sheet C-05 of the CDP (the "Existing Conditions Plan").

(i) The Existing Development on the Property, as shown on the CDP, may remain in use as an initial phase until such time as the portion of the Property on which the existing structure(s) is located is redeveloped in accordance with this application, or as otherwise stated in these Proffers. The structures may not be enlarged, except minor building additions may be approved by the Zoning Administrator pursuant to the provisions of Par. 4 of Sect. 16-403 of the Ordinance. Modifications to the interior and exterior of structures and associated parking areas shall be permitted. Changes may be made to the Existing Development as shown on Sheets L8-101 through L8-107 of the CDP.

(ii) Any use permitted in the PTC District shall also be permitted as an interim use in the Existing Development, subject to the use limitations of Section 6-505; provided however retail sales establishments-large and residential uses shall not be permitted.

(iii) The Applicant may make minor modifications deemed to be in substantial conformance with the Existing Conditions Plan without the need for a CDPA or FDP.

(iv) Privately owned and operated commercial off-street parking and commuter parking, at rates determined by the Applicant, shall be permitted as an interim use within existing parking areas on the Property upon notification to the Fairfax County Department of Transportation ("FCDOT") without PCA/CDPA/FDP/FDA/PP approval, provided any such parking adjacent to Spring Hill Road is screened with landscaping. At the time of site plan approval for commercial off-street parking and commuter parking in existing surface lots, the Applicant shall provide to VDOT and FCDOT an operational traffic analysis ("Operational Analysis") of points of access to the parking site. Such Operational Analyses shall be limited to an assessment of those driveways and/or turn lanes serving the parking site.

B. Interim Development.

(i) Additions or modifications to the Existing Development beyond those deemed minor shall be permitted with the approval of a PCA, a CDPA and an FDP.

(ii) New interim structures on the Property shall be permitted with the approval of a PCA, CDPA and an FDP. Any use permitted in the PTC District shall also be permitted as an interim use in new interim structures,
however, retail sales establishments-large and residential uses shall not be permitted.

(iii) Proffer commitments associated with the new interim structures shall be determined at the time of proffered condition amendment approval and shall result in improvements commensurate with the scope and scale of the proposed development.

7. **Final Development Plans.** FDPs for the subject site shall be in substantial conformance with the CDP and these Proffers. FDPs approved for the Property shall establish the maximum GFA, range of the number of dwelling units and mix of uses for each building including any portion of existing buildings to remain except in the case of the substation as described in Proffer 64, which may be a separate and independent FDP. The specific GFA for each building shall be established at final site plan. If the maximum GFA or maximum number of dwelling units approved with the FDP is less than the maximums shown on the CDP, the excess GFA or dwelling units may be utilized in another building or building(s) on the Property provided the excess GFA or dwelling units can be accommodated within the maximum building height for the building utilizing the excess GFA or dwelling units shown on the CDP and FDP(s) or FDPA(s) for the applicable building(s) transferring and utilizing the excess GFA or dwelling units are approved.

In addition, the following information shall be provided on each FDP not filed concurrently with these rezoning applications.

A. **Tabulations.** A tabulation indicating the development status of all property subject to this Rezoning shall be provided with each FDP and site plan submitted for the Property. The tabulation shall include a listing of all existing and proposed buildings, along with the GFA and uses approved on the CDP, FDP and site plan as may be applicable. The tabulation shall identify the reassignment of any excess GFA (as compared with what was originally shown on the CDP) as applicable and shall be updated with each subsequent FDP and site plan approved for the Property.

B. **Tree Canopy Calculations.** A tabulation indicating the tree canopy calculations of all property subject to RZ 2011-HM-027 shall be provided with each FDP and site plan submitted for the Property and shall be updated with each subsequent FDPA and site plan approved for the Property.

C. **TDM Supplement.** A copy of the previous TDM Annual Report, if available, to determine progress toward attaining TDM goals and any planned modifications to the TDM program.

D. **Functional Drawings/Sight Distances.** Functional drawings to include proposed right-of-way lines associated with public streets; vehicular sight distance lines at all intersections within, and adjacent to, the FDP area overlaid on the Landscape Plan, and details with respect to utilities and/or vegetation conflicts with building entrances and/or intersections as presented on the CDP.
E. Utilities. Approximate location of existing and proposed utilities to serve the area of the FDP including the location of any utility vaults, electrical vaults, stormwater management facilities, and related access/maintenance points overlaid on the Landscape Plan. Modifications to the location of utility vaults, electrical vaults, stormwater management facilities and related access/maintenance points shown on the FDP may be made in consultation with the Department of Planning and Zoning ("DPZ"), the Fairfax County Department of Transportation ("FCDOT"), and the Office of Community Revitalization ("OCR").

F. Proposed Uses. A list of proposed uses and demonstration of how such uses meet the applicable "Use Limitations" of Section 6-505 of the Ordinance.

G. Architectural Elements. Specific information on architectural elements and building heights.

H. Build-to-Lines. Refinement of the build-to-lines based on proposed uses, location of possible outdoor dining areas, and identification of awnings and canopies that extend beyond the building zone.

I. Streetscape. A graphic depiction of, and any adjustments to, the activated streetscape elements as well as submission of a "Streetscape Furnishing and Materials Plan".

J. Garage Treatments. Proposed parking garage façade treatments.

K. Loading /Trash/Service Area Treatment. Proposed loading/trash/service area treatments.

L. Landscaping. Detailed landscape plans.

M. Interim Conditions. Identification of specific proposed interim conditions within the FDP area and outside the FDP area, including the treatment of any portions of existing structures to remain.

N. Phasing. Identification of specific proposed phased improvements in accordance with those generally set forth on the phasing-related exhibits provided on Sheets L8-101 through L8-107 of the CDP (the "Phasing Exhibits").

O. Parking Spaces. Refinement of the number of parking spaces as provided in Proffer 49; and assuming parking ratios in early phases exceed the maximum ratios allowed, a description and/or tabulation in the statement of justification discussing how the subject FDP and preceding FDPs are achieving the Fairfax County Comprehensive Plan's (the "Comprehensive Plan") recommendations for phased parking such that at the build-out of the Property the maximum parking rates are not exceeded.
P. **Provisions for Bicycles and Buses.** Bicycle parking, storage and bicycle lane dimensions and location and general design of bus shelter(s), if any.

Q. **Parks and Recreation.** Specific park details, site amenities and any substitute recreation facilities.

R. **Residential Amenities.** Specific facilities and amenities to be provided for each residential building.

S. **Stormwater Management.** Identification of specific stormwater management facilities and a tabulation showing the impact of the FDP implementation on the retention and/or reuse of the first inch of rainfall on the Property.

8. **Development Phasing.** The Proposed Development includes up to three (3) buildings, which are identified on the CDP as Buildings S1, S2 and S3. Buildings S1 and S3 are designed so that they may be constructed in phases, identified as the Interim Plan and Full Build-Out Plan in the Development Tabulations. Development of the three buildings may proceed in any order provided that each such building or building phase provides the phasing conditions depicted on the Phasing Exhibits and that all proffers that apply to such building or building phase are addressed. Where a proffer establishes an obligation that applies to a building, reference to "Applicant" in such proffer shall mean the party undertaking the development of such building.

The Applicant shall construct the grid of streets and provide pedestrian and streetscape improvements, public parks, and private amenities and public facilities on the Property in conjunction with the development of each new building in accordance with the Phasing Exhibits and as further described in these Proffers. In addition, interim improvements as outlined in Proffer 28 and as may be determined at time of FDP approval shall be provided commensurate with the construction of each building. Adjustments to the phasing may be approved with FDP approvals without the requirement for a PCA or CDPA, provided the adjustments do not materially adversely affect the other phases.

For purposes of these Proffers "construct" shall mean that: i) a committed road improvement is substantially complete and is available for use by the public for travel whether or not the improvement has been accepted for maintenance by the state, and ii) a committed publicly accessible park space improvement is substantially complete and open to use by the public for use whether or not the improvement has been accepted by Fairfax County or the Fairfax County Park Authority ("FCPA").

9. **Parking Easement.** The Applicant shall make reasonable commercial best efforts to modify or terminate the Parking Easement so as to permit the development of Buildings S1 and S3 as shown in the Full Build-Out Plan rather than the Interim Plan. At the time of FDP submission(s) for Buildings S1 and/or S3, the Applicant shall seek a modification of the Parking Easement by offering alternative parking arrangements to the beneficiary of the easement in lieu of the existing surface easement spaces. To facilitate elimination of the Parking Easement, the Applicant reserves the right to: 1) build additional parking spaces above the maximum parking rates in order to accommodate the parking easement
spaces in one of the parking garages associated with Buildings S1, S2 or S3; 2) construct the underground parking garage, parking podium, and any associated ground floor retail uses for Building S3 in a separate phase prior to constructing the S3 tower above the podium; 3) relocate the surface spaces elsewhere on the Property on an interim basis in an arrangement more conducive to accommodating the Full Build-Out Plan for Building S1 or S3; or 4) offer other alternative parking arrangements.

Should the Applicant be unsuccessful in modifying or terminating the Parking Easement, the Applicant shall thereby be permitted to proceed with development of Building S1 or S3 under the Interim Plan.

10. **Fire Marshal Evaluation.** The Applicant has coordinated the layouts depicted on the CDP with the Fire Marshal. Changes from the CDP and FDPs shall be permitted in response to the review of site plans by the Fire Marshal, including adjustments to tree locations, lane use/pavement markings, signage, crosswalks, the streetscape and perimeter building areas as necessary to allow for required emergency vehicle access, without requiring approval of a PCA, CDPA and/or FDPA, provided such modifications are made in consultation with DPZ, FCDOT and OCR, and are in substantial conformance with the CDP, FDPs and these Proffers.

11. **Festivals, Fairs or Similar Activities.** The Applicant, or its designee, shall be permitted to operate festivals, fairs or similar activities, including, without limitation, farmers' markets and food vendors, on the Property, either in the interim surface parking lots or within publicly-accessible privately owned open spaces, including portions of the private streets/pedestrian ways. The Applicant shall request the issuance or approval of a temporary special permit as may be required under the Zoning Ordinance, which may include the establishment of an annual permit for continuing or seasonal events. In addition, the Applicant reserves the right to periodically close portions of the private transportation network for said activities.

**ARCHITECTURAL DESIGN**

12. **Architecture.**

A. The architectural treatment of all buildings within the Proposed Development shall create a sense of identity and place, and shall create human scale through the use of unifying elements such as materials, textures, color, window treatments, decorative details, lighting, and landscaping. Buildings shall be designed with high quality architecture and building materials that, at the time an individual FDP is approved, are typically used on the exterior of Class A office buildings and residential buildings of a similar quality.

B. Each FDP shall specify the general building materials, architecture and specific features designed to activate streetscapes as further described in Proffer 14. Architectural plans, elevations, illustrations, materials and heights may be revised subsequent to CDP and FDP approval as a result of final architectural and engineering design, provided the quality of design remains in substantial
conformance with that shown on the CDP and subsequent FDPs and as set forth in these Proffers, as determined by the Zoning Administrator.

13. **Build-to-Lines.** Build-to-lines ("BTL") have been depicted on the CDP to create an urban, pedestrian-oriented environment where buildings are located close to the street and pedestrian/streetscape areas are located between the buildings and the streets. In general, building facades are intended to be configured in such a way as to provide a continuous street wall along this line, but modifications to either side of the BTL shall be permitted provided such are in general conformance with the CDP and are shown on an approved FDP and/or site plan. In general, awnings and other architectural canopies attached to the building shall not extend beyond the building zone, except as may be shown on an approved FDP. At the time of FDP approval, the Applicant shall identify possible locations along the street level for expanded areas for outdoor dining adjacent to cafes and restaurants and shall provide appropriate building zones for such uses in keeping with the Comprehensive Plan recommendations.

14. **Activated Streetscapes and Ground Floor Elements.** The ground floors of all new buildings on the Property (except those buildings with only residential uses on the ground floor), but not the parking structures and entrances associated with said buildings, shall be designed and constructed with non-residential portions of ground floors having an average floor to floor height of 16 feet to accommodate potential non-residential uses designed to activate the streetscape. As indicated on Sheet L1-001 of the CDP, all streets on the Property are planned as secondary or tertiary pedestrian corridors. These corridors are designed to accommodate modest pedestrian activity and make connections to less intense areas. The specific activation elements to be utilized for each building shall be graphically depicted on the FDP for review and approval.

A. Secondary pedestrian corridors shall incorporate the following elements:

(i) Where the ground floors of buildings incorporate non-residential uses, a minimum 40% of the area of the ground floor facades of such buildings shall be constructed with glazed windows and doors or other transparent materials.

(ii) In residential buildings that do not incorporate non-residential uses on part or all of the ground floors, efforts shall be made to incorporate, recreational and amenity spaces on the ground floor with appropriate transparency and/or incorporate entries into individual dwelling units from the street level. Residential units that have direct access to the streetscape from an individual unit shall utilize design features to provide interior privacy (such as having a ground floor elevation that is above the sidewalk grade).

(iii) Where parking structures along the ground floor facades of buildings occur, screening composed of architectural systems designed to restrict views into the garage spaces from street level shall be applied, or the
general façade detailing of the building above may be continued to the ground plane.

(iv) Access to parking garages and loading/trash/service areas shall not be provided along the secondary pedestrian corridor.

B. Tertiary pedestrian corridors shall incorporate the following elements:

(i) Where the ground floors of buildings incorporate non-residential uses, a minimum 25% of the area of the ground floor facades of such buildings shall be constructed with glazed windows and doors or other transparent materials.

(ii) In residential buildings that do not incorporate non-residential uses on part or all of the ground floors, efforts shall be made to incorporate, recreational and amenity spaces on the ground floor with appropriate transparency and/or incorporate entries into individual dwelling units from the street level. Residential units that have direct access to the streetscape from an individual unit shall utilize design features to provide interior privacy (such as having a ground floor elevation that is above the sidewalk grade).

(iii) Where parking structures along the ground floor facades of buildings occur, screening composed of architectural systems designed to restrict views into the garage spaces from street level shall be applied, or the general façade detailing of the building above may be continued to the ground plane.

(iv) Access to parking garages and loading/trash/service areas may be provided along tertiary pedestrian corridor.

(v) Loading/trash/service areas along tertiary pedestrian corridors shall be screened from public view through the use of roll down doors or similar treatment.

C. Tertiary pedestrian Corridors located along a private alley shall be designed to accommodate only modest pedestrian activity. Parking structures and access to parking garages and loading/trash/service areas are encouraged along private alleys.

15. Parking Structures. To further the goals of the Comprehensive Plan, above grade parking structures shall incorporate uses or screening at the ground level in keeping with Proffer 14, so as to provide a pleasant and attractive design/experience along the streetscape. In addition, one or more of the following techniques shall be employed to screen garage areas above the street level:

A. Continuation of the general façade detailing of the tower above down to the top of the retail level storefront;
B. Extension of retail signage and architectural expressions above the retail level to provide a variety of storefront experiences, as may be permitted by the Zoning Ordinance or by an approved Comprehensive Sign Plan; or

C. Application of architectural screening materials that may include, but not be limited to, metal framing systems with inserted panels of wire mesh, metal, glass or other materials, and precast concrete or masonry spandrels designed to minimize views into the garage spaces from street level.

Alternate parking structure design features are depicted on Sheets A-25.0 and A-26.0 of the CDP and shall be shall be further refined on the FDP for review and approval.

16. **Building Height.** The maximum building heights for the proposed buildings on the Property are identified on the CDP. The final height for each building and specific steps in building height may be further refined at the time of FDP, site plan or building permit approval, but shall not exceed the maximum building heights shown in the Development Tabulations.

Building heights shall be measured in accordance with the provisions of the Zoning Ordinance and shall be exclusive of those structures that are typically excluded from the maximum height regulations as set forth in Section 2-506 of the Ordinance, including for example, mechanical penthouses, rooftop amenities, and other rooftop structures and architectural features. All building penthouses/rooftop structures shall be integrated into the architecture of the building. The height and extent of any rooftop penthouse shall be provided on the FDP for each building site, as well as any rooftop parapet, wall, or fencing in excess of that permitted by the Zoning Ordinance.

17. **Telecommunications Equipment.** Telecommunications equipment may be placed on the proposed buildings' rooftops or facades. Any such facilities must comply with the applicable requirements of the Zoning Ordinance and be screened and/or setback sufficiently from the perimeter of the roof and penthouse such that they are not visible from the streets adjacent to the Property. Other screening measures may be used such as including the facilities as part of the architecture of the buildings, utilizing compatible colors, or employing telecommunication screening material and flush mounted antennas. Telecommunications equipment may also be architecturally integrated onto the facades of the building where necessary to ensure on-street and/or open space coverage.

18. **Bird-Friendly Design Elements.** In an effort to reduce bird injury and death due to inflight collisions with buildings, the Applicant shall include one or more bird friendly design elements, as determined by the Applicant, in the architectural plans of each building on the Property. The bird friendly design elements may include, but not be limited to, the use of color, texture, opacity, fritting, frosting, patterns, louvers, screens, interior window treatments, or ultraviolet materials that are visible to birds, the angling of outside lights, curbing of excessive or unnecessary night-time illumination in commercial buildings, reduction of bird attracting vegetation, the use of decoys, and breaking of glass swaths. Upon the issuance of a building permit for each building, the provisions of this Proffer shall be deemed satisfied as to such building.
BUILDING PRACTICES

19. **Residential Building Certifications.**

A. The Applicant shall include, as part of the building plan submission for any residential building to be constructed on the Property, a list of specific credits within the project’s registered version of the U.S. Green Building Council’s Leadership in Energy and Environmental Design New Construction (LEED®) rating system, or other LEED rating system determined to be applicable by the U.S. Green Building Council (USGBC), or its equivalent (as determined jointly by the Applicant and Fairfax County), that the Applicant anticipates attaining. All references herein to LEED include both LEED or its equivalent as determined by the Applicant and the County and all references to USGBC include the applicable equivalent agency.

Except as otherwise provided below in Paragraph E as an alternative, a LEED or equivalent-accredited professional (the "LEED-AP") shall provide certification statements at the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED certification of the building.

B. The Applicant shall designate the Chief of the Environment and Development Review Branch ("EDRB") of DPZ as a team member in the USGBC’s LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

C. Prior to the building plan approval for the building to be constructed, the Applicant shall post a “green building escrow” in the form of cash or a letter(s) of credit from a financial institution acceptable to the Department of Land Development Services (LDS) as defined in the Public Facilities Manual (PFM), in the amount of $2.00/square foot of GFA, as shown on the approved site plan. This green building escrow shall be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED-NC certification, by the USGBC, under the project's registered version of the LEED-NC rating system or other LEED rating system determined, by the USGBC, to be applicable to each building. The provision to EDRB of documentation from the USGBC that each building has attained LEED-NC certification will be sufficient to satisfy this commitment.

D. At the time LEED-NC certification is demonstrated to the EDRB, the escrowed funds and/or letter(s) of credit shall be released to the Applicant.

If prior to bond extension, reduction or final bond release for the applicable building site, whichever occurs first, the Applicant provides to EDRB documentation demonstrating that LEED-NC certification for the building has not
been attained but that the building has been determined by the USGBC to fall within three (3) points of attainment of LEED-NC certification, 50% of the green building escrow will be released to the Applicant; the other 50% will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives. If the certification is still in progress at the time of application for bond extension or reduction, which given the construction timelines associated with the Proposed Development there is the potential for multiple bond extensions or reductions prior to the Proposed Development’s completion, the time frame for the provision of the documentation described above shall be automatically extended to the time of the next bond extension or reduction. However, the documentation must be provided prior to the final bond release for the applicable building site.

If prior to bond extension, reduction or final bond release for the applicable building site, whichever occurs first, the Applicant fails to provide documentation to EDRB demonstrating attainment of LEED-NC certification or demonstrating that the building has fallen short of LEED-NC certification by three (3) points or less, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives. If the certification is still in progress at the time of application for bond extension or reduction, which given the construction timelines associated with the Proposed Development there is the potential for multiple bond extensions or reductions prior to the Proposed Development’s completion, the time frame for the provision of the documentation described above shall be automatically extended to the time of the next bond extension or reduction. However, the documentation must be provided prior to the final bond release for the applicable building site.

E. As an alternative to the actions outlined in the Paragraphs A, C and D above, the Applicant may choose, at its sole discretion, to pursue a certification higher than LEED-NC certification, in which case the LEED-AP will provide certification statements at the time of building plan review confirming that the items on the list of specific credits will meet at least the minimum number of credits necessary to attain LEED-NC Silver certification.

Prior to building plan approval for the building to be constructed, the Applicant shall submit documentation, to EDRB, regarding the USGBC’s preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED-NC Silver certification. Under this alternative, the Applicant is not required to provide a “green building escrow” unless the Applicant fails to provide the above referenced documentation that the building is anticipated to attain LEED-NC Silver pre-certification.

Prior to final bond release of each building, the Applicant shall submit documentation to EDRB, confirming the status of LEED certification.
F. As an alternative to the actions outlined in the Paragraphs A, C, D and E above, if applicable and if the project meets the eligibility criteria for the rating system, the Applicant may select, subject to EDRB approval, an alternate residential rating system such as Earth Craft, or the 2015 National Green Building Standard (NGBS) using the ENERGY STAR® Qualified Homes path for energy performance or other approved energy path that may be implemented without an escrow. Certification in accordance with the 2015 National Green Building Standard (NGBS) using either the ENERGY STAR® Qualified Homes path for energy performance, or another approved energy performance path, as demonstrated through documentation submitted the Environment and Development Review Branch (EDRB) of DPZ from a home energy rater certified through Home Innovation Research Labs that demonstrates that the dwelling unit has attained the certification prior to the issuance of the RUP for each dwelling unit/building. To use an energy path other than ENERGY STAR, the dwelling unit must provide both the above referenced certification documentation and additional documentation demonstrating equivalent or greater energy performance to the ENERGY STAR standard prior to the issuance of the RUP for each dwelling unit/building.

If one of the alternate residential rating systems listed herein is selected as an alternative to the previous paragraphs, the Applicant shall note the selected system and provide a completed checklist of the anticipated options to be pursued for the specified rating system at the time of site plan and building plan review. The Applicant shall demonstrate attainment of the selected certification from a rater recognized through the selected program prior to the bond extension, reduction or final bond release of each building site, whichever occurs first. If the certification is still in progress at the time of application for bond extension or reduction, which given the construction timelines associated with the Proposed Development there is the potential for multiple bond extensions or reductions prior to the Proposed Development’s completion, the time frame for the provision of the documentation described above shall be automatically extended to the time of the next bond extension or reduction. However, the documentation must be provided prior to the final bond release for the applicable building site.


A. The Applicant shall include, as part of the building plan submission for any new non-residential building to be constructed on the Property, a list of specific credits within the project’s registered version of the U.S. Green Building Council’s Leadership in Energy and Environmental Design Core and Shell (LEED®-CS) rating system, or other LEED rating system determined to be applicable by the U.S. Green Building Council (USGBC), or its equivalent (as determined jointly by the Applicant and Fairfax County), that the Applicant anticipates attaining. All references herein to LEED-CS include both LEED-CS or its equivalent as determined by the Applicant and the County and all references to USGBC include the applicable equivalent agency.
Except as otherwise provided below in Paragraph E as an alternative, the LEED-AP shall provide certification statements at the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED-CS Silver certification of the building.

B. The Applicant shall designate the Chief of EDRB as a team member in the USGBC’s LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

C. Prior to the building plan approval for the building to be constructed, the Applicant shall post a “green building escrow” in the form of cash or a letter(s) of credit from a financial institution acceptable to LDS as defined in the Public Facilities Manual (PFM), in the amount of $2.00/square foot of GFA, as shown on the approved site plan. This green building escrow shall be in addition to and separate from other bond requirements and will be released upon demonstration of attainment of LEED-CS Silver certification, by the USGBC, under the project’s registered version of the LEED-CS rating system or other LEED rating system determined, by the USGBC, to be applicable to each building. The provision to EDRB of documentation from the USGBC that the building has attained LEED-CS Silver certification will be sufficient to satisfy this commitment.

D. At the time LEED-CS Silver certification is demonstrated to EDRB, the escrowed funds and/or letter(s) of credit shall be released to the Applicant.

If prior to bond extension, reduction or final bond release for the applicable building site plan, whichever occurs first, the Applicant provides to EDRB documentation demonstrating that LEED-CS Silver certification for the building has not been attained but that the building has been determined by the USGBC to fall within three (3) points of attainment of LEED-CS Silver certification, 50% of the green building escrow will be released to the Applicant; the other 50% will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of county environmental initiatives. If the certification is still in progress at the time of application for bond extension or reduction, which given the construction timelines associated with the Proposed Development there is the potential for multiple bond extensions or reductions prior to the Proposed Development’s completion, the time frame for the provision of the documentation described above shall be automatically extended to the time of the next bond extension or reduction. However, the documentation must be provided prior to the final bond release.

If prior to bond extension, release or final bond release for the applicable building site plan, whichever occurs first, the Applicant fails to provide documentation to EDRB demonstrating attainment of LEED-CS Silver certification or demonstrating that the building has fallen short of LEED-CS Silver certification
by three (3) points or less, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives. If the certification is still in progress at the time of application for bond extension or reduction, which given the construction timelines associated with the Proposed Development there is the potential for multiple bond extensions or reductions prior to the Proposed Development’s completion, the time frame for the provision of the documentation described above shall be automatically extended to the time of the next bond extension or reduction. However, the documentation must be provided prior to the final bond release.

E. As an alternative to the actions outlined in the Paragraphs A, C and D above, the Applicant may choose at its sole discretion to pursue a certification higher than LEED-CS Silver, in which case the LEED-AP will provide certification statements at the time of building plan review confirming that the items on the list of specific credits will meet at least the minimum number of credits necessary to attain LEED-CS Gold pre-certification.

Prior to building plan approval for the building to be constructed, the Applicant shall submit to EDRB documentation from the USGBC demonstrating that LEED Gold pre-certification under the Core and Shell program has been attained for that building. Under this alternative, the Applicant is not required to provide a “green building escrow” unless the Applicant fails to provide the above referenced documentation that the building is anticipated to attain LEED-CS Gold certification.

However, if the Applicant is unable to provide the pre-certification documentation prior to the building permit approval but does anticipate receiving the documentation prior to the attainment of the certification, the Applicant may, prior to the issuance of the building permit, post an escrow identical to the one described in Paragraph C above. This escrow will be released upon submission of the documentation to EDRB from the USGBC demonstrating that the building is anticipated to attain a sufficient number of credits to attain LEED Gold certification.

21. **Energy Sustainability.** To promote efficient, renewable and sustainable energy practices, the Applicant shall provide the following:

A. **Electric Vehicle Charging Infrastructure.** A minimum of four (4) electric vehicle recharging station that serves eight (8) parking spaces and conduit to facilitate additional future recharging stations in each parking garage.

B. **Energy and Water Data.** To the extent there are master electric, gas and water meters for entire buildings, upon request by the County the Applicant shall provide to the County aggregated non-proprietary energy and water consumption data, as practicable, for each building and the entire Property.
22. **Noise Attenuation.** If determined necessary by DPZ, prior to FDP approval for each building on the Property, the Applicant shall submit a traffic noise analysis to the Chief of the Environment and Development Review Branch ("EDRB") of DPZ identifying any areas of the building with projected traffic noise greater than a day-night averaged noise level ("Ldn") of 65 decibels ("dBA"). Such analysis shall take into consideration development phasing (which buildings may, or may not, have be constructed), and how that may affect noise impacts. The Applicant shall reduce the interior day-night average sound level ("DNL") to no more 45 dBA for residential buildings and 50 dBA for office buildings on the Property. At the time of building plan application for the full shell building permit for any impacted building, the Applicant shall submit to the Chief of the EDRB for approval, and to LDS for information only, a refined acoustical study prepared by a qualified acoustical consultant (the "Indoor Noise Study") addressing indoor noise levels, including development phasing, proposed noise attenuation measures, and proposed materials to ensure compliance with the interior DNL limit of 45 dBA or 50 dBA, as appropriate. The Applicant shall not obtain full-shell building permits until the Chief of the EDRB has approved the applicable Indoor Noise Study, provided that a failure by the Chief of the EDRB to review and respond to the Applicant within 60 days of receipt of the Indoor Noise Study shall be deemed approval of such study.

23. **Notification of Exterior Noise Levels.** In the event that exterior balconies on residential buildings are anticipated to be exposed to exterior noise levels in excess of 65 dBA, the Applicant shall notify the potential tenants or purchasers of such residential units, either in the lease or sales contract, that exterior noise levels may exceed 65 dBA, which is the policy established by Fairfax County for outdoor recreation in residential areas impacted by high noise levels.

**SITE DESIGN**

24. **Conceptual Landscape Plan.** The CDP includes a conceptual landscape plan for the Property consisting of an overall plan and details regarding streetscapes, plazas, publicly accessible park areas including courtyards and private amenity areas. As part of subsequent FDP approvals, more detailed landscape plans for each building phase shall be provided in general conformance with the concepts included on Sheets L5-101 through L6-301 with adjustments permitted so long as the quantity and quality of the landscaping provided and the function of the space remains consistent with that shown on the CDP. Such plan shall include the location of all known utilities and sight distance requirements overlaid on the planting plan.

25. **Detailed Landscape Plan.** As part of the first and all subsequent site plan submission(s) for each building phase, the Applicant shall submit to the Urban Forestry Management Division ("UFMD") of the Department of Public Works and Environmental Services for review and approval a detailed landscape plan that is in substantial conformance with the quantity and quality of plantings and materials landscaping shown on the approved FDP, and shall include, among other things, irrigation information, design details for tree wells and other similar planting areas on structures and along streets as well as tree canopy calculations. These details shall include the composition of planting materials, methods for providing suspended pavement over tree root zones to prevent soil compaction, and
methods for ensuring the viability of plantings on structures and along streets. Adjustments to the type and location of plantings shall be permitted to avoid conflicts with utilities and other site engineering considerations.

26. **Streetscaping.** Streetscaping shall be installed throughout the Property as conceptually illustrated on the CDP. Streetscape elements shall include: a landscape amenity panel located immediately behind the face of curb; a clear pedestrian sidewalk adjacent to the landscape amenity panel; and a building zone between the pedestrian sidewalk and the face of the building that is designed to allow access to the building and/or additional landscaping adjacent to residential uses and also storefront browsing, outdoor display, outdoor dining, and similar uses adjacent to retail uses. Streetscaping elements may be adjusted at the time of FDP approval provided the quality of the streetscape is consistent with that shown on the CDP.

A. **Street Trees.** Street tree planting sites are depicted on the CDP, subject to revisions as may be approved on the FDP, or at site plan review by UFMD or necessitated by providing bus stop shelters, clear zone requirements, etc. The Applicant shall retain the services of a certified arborist or Registered Consulting Arborist to monitor the design and inspect the planting of the street trees and shall notify UFMD prior to tree pit construction to allow for County inspection. Where minimum planting widths of eight (8) feet cannot be provided, structural cell technology, or other measures acceptable to UFMD, shall be used to satisfy the following specifications for all planting sites:

(i) A minimum of 4 feet open surface width and 16 square feet open surface area for Category III and Category IV trees, with the tree located in the center of the open area or as an option a grated covering of the open surface area as may be approved with the FDP;

(ii) A minimum rooting area of 8 feet wide (may be achieved with techniques to provide un-compacted soil below hardscape areas within the pedestrian realm), with no barrier to root growth within four feet of the base of the tree;

(iii) Minimum soil volume for Category III and Category IV trees (as defined in Table 12.19 of the PFM) shall be 700 cubic feet per tree for single trees. However, in the event that the 700 cubic feet of soil volume cannot be met, less volume may be provided per UFMD review and approval. A contiguous planting area containing multiple trees shall provide soil conditions favorable for root growth;

(iv) Typical soil specifications shall be provided at time of site plan to UFMD for trees counted to meet 10 year tree canopy coverage. Actual soil specifications in planting sites shall be provided after rough grading but before fine grading of the landscape/plant areas. Soil media as described in the soil specifications shall be installed at time of planting;
(v) All shade trees shall be a minimum of 3 inch caliper at the time of planting; all flowering trees shall be a minimum of 2 inch caliper at the time of planting; and all new evergreen trees shall be a minimum of eight (8) feet in height at the time of planting; and

(vi) Street trees planted within existing utility easements that are removed to facilitate repairs of utilities in these easements shall be replaced.

(vii) Prior to installation of street trees to meet the approved landscape planting plan, the Applicant shall coordinate a pre-installation meeting on the site with UFMD staff.

B. Non-Invasive Plant Materials. Invasive species, as defined by the Fairfax County PFM, shall not be used within the streetscape and landscaped open space areas.

C. Utility Locations. Utilities, including, but not limited to water, sanitary sewer and storm sewer utility lines, shall be installed within the street network to the maximum extent feasible as determined by LDS or shall be placed in locations that do not conflict with the landscaped open space areas and streetscape elements shown on the CDP and/or subsequent FDP as determined by LDS. If there is no other option, utilities may be placed within open space or streetscape areas provided that the long-term health of trees and other plantings is ensured by the provision of sufficient soil volume as outlined in these Proffers, as determined by the UFMD. A conceptual utility plan shall be overlaid on the landscape plan submitted in the FDP. Adjustments to the type and location of plantings shall be permitted to avoid conflicts with utilities and other site engineering considerations. If at the time of site plan approval, street trees shown on the FDP are in conflict with existing or proposed utilities and alternative locations for the street trees satisfactory to UFMD cannot be accommodated, the Applicant may delete such trees without the need for the issuance of a minor modification approval by DPZ and without a PCA, CDPA and/or FDPA provided the minimum 10% tree canopy can still be met.

Maintenance access points to SWM Facilities as hereinafter defined and electric vaults beneath the streetscape should be located outside clear pedestrian walkway zone of the streetscape when feasible. If the access points must be located in the walkway zone, they shall be designed as a lift out panel with the same paving materials as the walkway (subject to ADA requirements), be flush with the walkway, and meet ADA accessibility requirements. These maintenance points shall be shown on each FDP.

D. Sight Distance Considerations. Sight distance requirements shall be provided with the landscape plan submitted with each FDP, so as to identify and avoid conflicts with street tree locations. If determined at the time of site plan approval that street tree locations conflict with sight distance requirements, the Applicant shall investigate whether limited pruning or minor adjustments to the locations of street trees will alleviate sight distance concerns. In the event VDOT does not
approve the tree locations even after the changes anticipated above the Applicant shall be permitted to relocate the affected street tree without the need for confirmation from DPZ, subject to approval by the UFMD. If the deleted street tree(s) result in a tree canopy below 10% on the Property, the street tree(s) must be accommodated in another location on the Property, as approved by DPZ in consultation with UFMD.

E. Streetscape Furnishings and Materials and Lighting. Unified and high quality streetscape materials shall be provided and may include, but not be limited to, unit pavers, seat walls, tree space edging, lighting, benches, trash and recycling receptacles and other hardscape elements. A Streetscape Furnishing and Materials Plan shall be provided as part of all FDPs. These plans shall include general product information and approximate locations of furnishings and materials to be located in the streetscape between the building face and the curb, and in other public realm open spaces. Materials, furnishings, and lighting shall be compatible with those already identified in the Tysons Urban Design Guidelines for the Tysons West area, dated January 14, 2012, as may be amended and or modified and shall be coordinated with any streetscape design efforts put forth by the Tysons Partnership, but shall not be subject to approval by the Tysons Partnership.

All streetscape lighting shall be energy efficient. All on-site, outdoor and parking garage lighting shall not exceed that permitted under the Outdoor Lighting Standards of Section 14-900 of the Ordinance. All parking lot and new building mounted security lighting shall utilize full cut-off fixtures. Recessed lighting shall be directionally shielded to mitigate the impact on the adjacent properties.

F. Signage and Wayfinding. Signage for the Property shall be provided in accordance with the requirements of Article 12 of the Zoning Ordinance or as may be approved with a future Comprehensive Sign Plan ("CSP") for the Property. The placement of traffic control signage on public streets shall be coordinated with VDOT. Wayfinding signage and elements may be provided as part of a CSP for the Property or as part of a larger CSP for the Tysons area. Such wayfinding signage shall be coordinated with the Tysons Partnership so to facilitate a consistent wayfinding and signage system throughout the district, but shall not be subject to approval by the Tysons Partnership. Wayfinding shall provide direction to locations of prominent attractions, parks, cultural arts destinations, bicycle trails, and other public amenities.

G. Maintenance. The Applicant shall maintain and replace in-kind all pedestrian realm elements within the Proposed Development. The pedestrian realm includes all areas between the back of curb and the building zone whether located within the public right-of-way or on private land with public access easements. The Applicant shall enter into the appropriate agreement, in a form approved by the Office of the County Attorney, with the County (or other public entity, as needed) to permit the Applicant to perform such maintenance. An alternative maintenance agreement, such as a Business Improvement District, may be entered into upon
written agreement of both the County and the Applicant without the requirement for a PCA. Maintenance commitments include, but are not limited to:

(i) All plantings including trees, shrubs, perennials, and annuals;
(ii) All associated irrigation elements;
(iii) All hard surfaces;
(iv) All streetscape furnishings including trash and recycling receptacles, benches, bike racks and non-standard structures;
(v) All lighting fixtures, brackets and poles;
(vi) All non-VDOT standard sign posts, traffic signal poles, pedestrian signal poles, mast arms, signal heads and control boxes;
(vii) Snow removal;
(viii) Leaf removal;
(ix) Trash, recycling and litter removal;
(x) Decorative retaining walls;
(xi) Special drainage features, such a Low Impact Design facilities; and
(xii) All urban park amenities including horticultural care, maintenance of all water features, irrigation, lighting, furnishings, paving, and art.

Phasing of streetscaping is discussed within the context of individual phases as depicted in the Phasing Exhibits. As determined at the time of FDP approval, where the final streetscape design cannot be fully implemented during certain phases of development, the Applicant shall provide interim streetscape improvements as described in Proffer 28C.

27. Soil Remediation. Where it is determined that planting areas are compacted and unsuitable for the establishment and long-term survival of landscape plants, such planting areas shall be aerated and amended to a depth of 18-24 inches to restore planting areas to satisfy requirements of trees, shrubs and groundcovers specified in the landscape planting plan at site plan. The Applicant shall provide notes and details in the landscape plan at site plan specifying how the soil will be restored for the establishment and long-term survival of landscape plants.

28. Interim Conditions and Standards. Due to the size of the Proposed Development and the time anticipated for its build-out, phased redevelopment may result in various interim conditions on the Property. At the time of FDP submission, the Applicant shall identify the specific proposed interim conditions within the FDP area and outside the FDP area and shall ensure such conditions provide reasonable pedestrian connections, vehicular
circulation and access, temporary streetscaping and landscaping, public park treatments, and screening/treatment of exposed/partially complete above grade parking structures.

A. If an interim condition/phase includes partial demolition of an existing structure, the FDP for that phase shall include the portion of the existing structure to remain to ensure treatments to the building and revisions to parking and on-site circulation for the existing structure are adequate.

B. If interim improvements not located on the Property are contemplated with any FDP, such FDP shall specify how and when such improvements are to be constructed. In the event the Applicant is unable to acquire the right-of-way and/or easements necessary to construct such interim improvement through a cooperative agreement with the owners, the Applicant shall request in writing that Fairfax County acquire the easements or rights-of-way by means of its condemnation powers as described in Proffer 71. At the time of FDP approval, it shall also be determined what course of action shall be required of the Applicant should the County elect not to use, or is unsuccessful in its attempt to use, its condemnation powers.

C. Interim conditions shall comply with the following general standards provided that the improvements are acceptable to Fairfax County, VDOT, and all other utility companies as may be appropriate; however they may be modified and adjusted with FDP approval.

(i) Construction of interim sidewalks a minimum of a five (5) feet in width and installation of interim street lights along the interim sidewalks, the selection of which shall be approved with the applicable FDP, as needed to ensure a safe, convenient pedestrian path to the Metro Station.

(ii) Installation of street trees, with a minimum size of 2 inch caliper, approximately every 50 feet, to the extent feasible as determined by UFMD based on existing conditions and utility easements. Interim street tree planting shall not be required to meet the minimum planting width/area standard for permanent street trees.

(iii) Provision of interim designs for publicly accessible open spaces will include interim landscaping, pedestrian pathways, seating, signage, lighting and recreational facilities as determined at FDP. Interim public open space areas shall be clearly signed as an interim or temporary facility.

(iv) Provision of peripheral and interior parking lot landscaping in accordance with Article 13-203 of the Zoning Ordinance for new interim surface parking lots, unless waived or modified at the time of FDP or site plan approval.

(v) Application of a screening system (which may be removable) where above grade garage structures that will be interior when later phases are complete
are exposed at phase lines. This screening system shall be applied to all levels above grade and shall be composed of an architecturally designed system that may reflect basic architectural lines of the permanent facades, and that shall partially obscure the garage view from outside the garage until the next phase is constructed. The use of temporary artworks as a part of the screening system shall also be considered as part of the interim screening system. The specific screening system to be utilized for each building shall be determined at the time of FDP approval and graphically depicted on the FDP. Alternate temporary garage screening may be approved with FDP approval.

(vi) Grading and seeding of areas on the Property where existing improvements are removed to accommodate a portion of the Proposed Development, and are not scheduled to commence construction within 12 months.

(vii) Where appropriate, provision of attractive temporary construction fencing, which may include public art, signage or wayfinding elements. Signage shall be in keeping with Article 12 of the Ordinance or alternatively in accordance with an approved Comprehensive Sign Plan.

TRANSPORTATION IMPROVEMENTS

29. Grid of Streets. The Applicant shall construct and open for use to the public a proposed grid of streets as generally located and depicted on Sheets C-08 and C-09 of the CDP and in accordance with the phased development set forth in these Proffers. For the purposes of these Proffers, Roseline Street and Boone Boulevard shall be considered to run east-west and Spring Hill Road shall be considered to run north-south. The functional classification of those roadways comprising the grid of streets is summarized below:

<table>
<thead>
<tr>
<th>Street</th>
<th>Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spring Hill Road</td>
<td>Avenue</td>
</tr>
<tr>
<td>Boone Boulevard</td>
<td>Avenue</td>
</tr>
<tr>
<td>Roseline Street</td>
<td>Collector</td>
</tr>
<tr>
<td>Service Alley</td>
<td>Service Alley (private)</td>
</tr>
</tbody>
</table>

A. Public Streets. The Applicant shall dedicate right-of-way along the Property's frontages for Spring Hill Road, Boone Blvd, and Roseline Street (the "Public Streets"), to a point inclusive of the landscape amenity panel and the sidewalk or to such standard as may be approved on the FDP, except where interim streets are along a perimeter property line, in which case dedication shall occur to the property line to allow for expansion of the street to full sections and allow neighboring properties to access the streets. All improvements proposed to Public Streets shall be subject to VDOT approval and be designed to be in general conformance with the Transportation Design Standards for Tysons Corner Urban Center of the Memorandum of Agreement approved by the Board of Supervisors.
on September 13, 2011, as may be amended (the “Design Standards”), subject to
modifications/waivers as may be granted.

The Applicant shall work diligently with VDOT and the County during the FDP
and site plan approval processes to ensure that the improvements proposed to
existing and new public streets can be accepted by VDOT as public streets.

The Applicant shall diligently pursue VDOT acceptance of improvements to
existing streets and new public streets, for secondary street maintenance in
accordance with the process outlined in VDOT’s Secondary Street Acceptance
Requirements (the “SSAR”), as amended, including VDOT’s written certification
that such streets and/or improvements have been constructed in a manner
consistent with the VDOT approved plans and compliant with all applicable
regulations (“VDOT’s Written Certification”). In the event the Board of
Supervisors has not requested that VDOT accept the dedicated new public streets
or improvements into the secondary street network for maintenance within five
(5) years of VDOT’s Written Certification, such street(s) may be retained by the
Applicant upon notification to, and the concurrence of FCDOT, as a private street
subject to a public access and maintenance agreement in a form acceptable to the
County Attorney. In such event, a PCA, CDPA and/or FDPA will not be
required.

The Applicant shall dedicate and convey in fee simple to the Board of Supervisors
rights-of-way for the Public Streets, as may be further qualified by these Proffers.
Dedication shall occur at the time of site plan approval, with the following
exceptions:

(i) If at the time of site plan approval it is determined that stormwater
management facilities, electric vaults or other similar facilities proposed to
be located beneath the landscape amenity panel/sidewalk, signage, or
building projections prevent VDOT and/or Fairfax County from accepting
the landscape amenity panel/sidewalk within the right-of-way, the
Applicant shall provide dedication measuring 18 inches from the proposed
face of curb line and shall grant a public sidewalk and utility easement in a
form acceptable to the Office of the County Attorney, over the area of the
landscape amenity panel and sidewalk areas. This easement shall allow
for the installation of signage necessary for safety and operation of the
street as well as parking regulation equipment by VDOT and/or the
County. In addition, the Applicant shall provide easements within the
amenity panel for bus pads and shelters as determined at the time of FDP
or site plan.

(ii) If at the time of site plan approval it is unclear whether stormwater
management facilities, electric vaults or other similar facilities proposed to
be located beneath the landscape amenity panel/sidewalk will be
acceptable to VDOT and/or Fairfax County, the Applicant shall provide
dedication measuring 18 inches from the proposed face of curb line at the
time of site plan approval and shall reserve for potential future dedication the landscape amenity panel and sidewalk areas. A temporary public access easement in a form acceptable to the County Attorney shall be recorded over the reserved landscape amenity panel/sidewalk areas until such time as such areas are dedicated. Conveyance of the amenity panel/sidewalk areas to the Board of Supervisors shall occur following construction of the street and streetscape improvements and final street acceptance inspection by Fairfax County and/or VDOT subject to the stipulations in these Proffers.

(iii) Should it be determined following final street acceptance inspection that the landscape amenity panel and sidewalk areas are not acceptable to VDOT and/or Fairfax County to be included in the right-of-way, the reservation of potential future dedication of the landscape amenity panel and sidewalk areas shall be released and a public sidewalk and utility easement, in a form acceptable to the Office of the County Attorney, shall be granted in its place. This easement shall allow for the installation of signage necessary for safety and operation of the street as well as parking regulation equipment by VDOT and/or the County. In addition, the Applicant shall provide easements within any privately-owned amenity panel/sidewalk area for bus shelters identified on the CDP or any subsequent FDP, as determined at the time of site plan.

B. **Private Streets.** A public access easement in a form acceptable to the Office of the County Attorney shall be granted for any private alley/street and appurtenant facilities associated with any private streets as well as to facilitate County inspection and emergency access; such public access easement to become effective upon completion of the street.

C. **Definition of Construct.** For purposes of these Proffers “construct” shall mean that the committed road improvement is open to use by the public for travel whether or not the improvement has been accepted for maintenance by the state.

D. **Naming.** The Applicant reserves the right to provide different names for the streets than those shown on the CDP.

E. **Parking Lanes.** The Applicant shall provide on-street parking throughout the limits of the Property as generally located on the CDP.

30. **Spring Hill Road.**

A. The Applicant shall widen and improve Spring Hill Road along the Property’s frontage as generally depicted on Sheets C-08 and C-09 of the CDP. The widening of Spring Hill Road shall be provided in general accordance with the typical section depicted on Sheet C-22, as an undivided four-lane Avenue, with two travel lanes in each direction, a bicycle lane in each direction, a parking lane on each side of the street with additional pavement/widening provided at select
locations to accommodate certain turning movements and/or pavement transitions.

B. Improvements to Spring Hill Road along the Property’s frontages shall include a pavement section designed to accommodate a bicycle lane. Striping of a bicycle lane shall be subject to the approval of the County and VDOT. Bicycle lane and parking lane on the west side of Spring Hill Road are to be provided by others.

C. The final design of the improvements to Spring Hill Road as generally described above shall be determined in conjunction with the submission of any FDP and all site plans for those portions of the Property fronting Spring Hill Road. The construction of improvements to Spring Hill Road shall be provided in accordance with the Phasing Exhibits and as further detailed at the time of FDP approval. Street improvements shall be undertaken and completed for the entire length of the block between Roseline Street and Boone Boulevard; however streetscape improvements may be completed on a building frontage basis, unless otherwise determined at FDP. Should Building S1 be constructed under the Interim Plan instead of the Full Build-Out Plan, the Applicant shall escrow with LDS the cost of completing the final streetscape along the Building S1 Spring Hill Road frontage.

31. **Roseline Street.**

A. The Applicant shall design Roseline Street in general accordance with the typical section depicted on Sheet C-23, as a Collector, with two travel lanes in each direction, a bicycle lane in each direction, a parking lane on each side of the street.

B. The Applicant shall construct Roseline Street across the Property in general accordance with the interim design shown on Sheets C-08 and C-09, with one travel lane in each direction. It is anticipated that the full section of Roseline Street will be built by others with the future redevelopment of the adjacent parcel identified on the 2017 Fairfax County tax maps as Tax Map 29-3 ((1)) 2F ("Parcel 2F"). At the time of site plan approval for the interim design of Roseline Street, the Applicant shall escrow with LDS the costs of constructing the curb line and streetscape associated with the Ultimate alignment of Roseline Street as shown on Sheets C-10 and C-11; such reconstruction to be by others.

Construction of this interim section of Roseline Street may require off-site rights-of-way and/or easements from the adjacent parcel identified on the 2013 Fairfax County tax maps as Tax Map 29-3 ((1)) 2F ("Parcel 2F") and reconfiguration of the existing parking lot on Parcel 2F. The Applicant shall construct Roseline Street as shown on Sheets C-08 and C-09 and reconfigure the existing parking lot on Parcel 2F provided the Applicant is able to obtain any necessary rights-of-way/easements through a cooperative agreement with owner of the Parcel 2F.
The final design of the interim section of Roseline Street as generally described above shall be determined in conjunction with the submission of any FDP and all site plans for those portions of the Property along Roseline Street. Construction shall be provided with the construction of the Full Build-Out Plan for Buildings S1 and S3 as shown on the Phasing Exhibits and as further detailed at the time of FDP approval.

If not previously provided by others, when the Applicant constructs Roseline Street along the Building S-3 frontage, it shall also construct an extension of Roseline Street across the adjacent parcel identified as 2017 Tax Map 29-3 ((1)) 5 ("Parcel 5") to connect with the planned or existing extension of Roseline Street on adjacent property to the east, provided the owner and easement holder of Parcel 5 grant permission for such construction at no cost to the Applicant as set forth in Proffer 64B, other than typical legal and engineering fees associated with easement preparation and recordation.

Until such time as the Parking Easement is extinguished, Roseline Street cannot be built in its interim or ultimate condition. Under this condition, the Applicant shall relocate the existing northern curb-cut along the Property's Spring Hill frontage to generally align with planned Roseline Street on the west side of Spring Hill Road as shown on Sheets C-06 and C-07 of the CDP. This curb-cut relocation will require the modification to the Parking Easement and reconfiguration of the existing parking lot adjacent to Parcel 2F. Should the Applicant be unable to obtain the necessary permission from owner of the Parcel 2F to relocate the curb-cut, the existing curb-cut may remain to access the Property as detailed at the time of FDP, without the need for a CDPA.

Boone Boulevard. The Applicant shall design Boone Boulevard in general accordance with the typical section depicted on Sheet C-22, as an undivided four-lane Avenue, with two travel lanes in each direction, a bicycle lane in each direction, a parking lane on each side of the street. The Applicant shall construct Boone Boulevard across the Property in general accordance with the interim design shown on Sheets C-08 and C-09 as follows:

A. From Spring Hill Road to the eastern property line of the Property, the Applicant shall construct a 28 foot interim section accommodating two travel lanes.

B. The final design of the improvements to Boone Boulevard as generally described above shall be determined in conjunction with the submission of any FDP and all site plans for those portions of the Property fronting Boone Boulevard. Construction shall be provided in accordance with the Phasing Exhibits and as further detailed at the time of FDP approval.

C. If not previously provided by others, when the Applicant constructs Boone Boulevard along the Building S-3 frontage, it shall also construct an extension of Boone Boulevard across the adjacent parcel identified as 2017 Tax Map 29-3 ((1)) 5 ("Parcel 5") to connect with the planned or existing extension of Boone Boulevard on adjacent property to the east, provided the owner and easement
holder of Parcel 5 grant permission for such construction at no cost to the Applicant as set forth in Proffer 64B, other than typical legal and engineering fees associated with easement preparation and recordation.

33. **Service Alley.** The Applicant shall construct a service alley in general accordance with the design shown on Sheets C-06 through C-09. It shall be constructed as a private street in general accordance with the typical section depicted on Sheet C-22, a Service Alley. Construction shall be provided as shown in the Phasing Exhibits and as further detailed at the time of FDP approval. A public access easement in a form acceptable to the Office of the County Attorney shall be granted over the service alley to facilitate public and emergency access.

34. **Traffic Signals.**

A. If requested by VDOT or FCDOT, the Applicant shall complete and submit to VDOT warrant studies for potential signals at the intersections (if then existing) of Spring Hill Road/Roseline Street and Spring Hill Road/Boone Boulevard within 12 months of the issuance of the first RUP or Non-RUP for the second building to be constructed on the Property and each consecutive building constructed on the Property. Such studies shall include a review of both vehicular and pedestrian volume warrants.

B. If a signal is deemed warranted at any of these intersections by VDOT after having reviewed the warrant study and approving the same for installation, then such traffic signals, including pedestrian enhancements as may be required by VDOT, shall be designed, equipped and installed by the Applicant, utilizing any escrowed contributions for the signal received by the County, no later than eighteen (18) months after approval of the warrant.

C. For any signal warranted by VDOT, the Applicant shall provide VDOT with the requisite traffic signal plans for review and approval. All right-of-way associated with signal equipment (poles, equipment boxes, etc.) on the Property not already dedicated shall be reserved for dedication in fee simple to the Board of Supervisors in accordance with Proffer 29.

D. If the County, upon request of the Applicant or on its own initiative, determines that such signal installations as proffered will be detrimental to traffic operations, the Zoning Administrator may (1) agree to a later date for completion of the traffic signal installation(s) or (2) permit the Applicant to proceed without the signal installations.

E. If a signal at any of the identified intersections is not warranted within twenty-four (24) months after the issuance of the initial RUP or Non-RUP for the last new building to be constructed on the Property, then the Applicant's obligation to construct such signal is deemed null and void and the Applicant shall instead escrow funds with the County towards the cost of future signalization of any
applicable intersection by others. The escrow amount to be provided by the Applicant for each intersection is as follows:

(i) Spring Hill Road/Roseline Street: $99,400
(ii) Spring Hill Road/Boone Boulevard: $94,800

35. **State Street.** The Applicant may elect to design and construct an interim section of State Street from Boone Boulevard to Route 7 in general accordance in one of the three alignments as may be recommended by FCDOT’s State Street Study and endorsed by VDOT. The interim section of State Street consists of three (3) travel lanes (two northbound and one southbound) with additional pavement/widening provided at select locations to accommodate certain turning movements and/or pavement transitions. It is anticipated that with the future redevelopment of adjacent parcels, State Street will be expanded by others to include additional travel lanes and bicycle lanes and parking lanes on both sides of the street.

A. The interim section of State Street from Boone Boulevard to Route 7 may be constructed to support development on the Property as set forth in Proffer 40 and as may be further refined at the time of FDP or site plan approval.

B. Depending on the specific alignment, construction of the interim section of State Street will require off-site right-of-way and/or easements from adjacent parcels (the “State Street Off-Site Parcels”).

(i) In the event the Applicant attempts to but is unable to acquire the right-of-way and/or easements necessary to construct State Street on the State Street Off-Site Parcels through cooperative agreements with the owners, which may include a reservation of advanced density credit for dedicated rights-of-way consistent with the Zoning Ordinance, then the Applicant may choose to demonstrate in writing its efforts to acquire this right-of-way/easements and may submit a written request to Fairfax County in accordance with Proffer 71 asking the County to use its powers of condemnation to acquire those off-site rights-of-way and/or easements to facilitate the construction of the above improvement. In such case, if the County acquires those off-site rights-of-way and/or easements necessary to facilitate the construction of State Street by condemnation or otherwise, then the Applicant shall construct such improvements.

(ii) In the event the County elects not to use its powers of condemnation to acquire those off-site rights-of-way and/or easements to facilitate the construction of State Street, and no other alternative replacement access (such as the extension of Boone Boulevard eastward to Gosnell Road or the extension of Boone Boulevard westward to Westwood Center Drive) can be provided to the satisfaction of FCDOT and VDOT development on the Property shall be limited as set forth on Proffer 40.
36. **Route 7/State Street Intersection Improvement.** In the event the Applicant elects to construct State Street as described in Proffer 35, then the Applicant shall design and construct a westbound left-turn lane on Route 7 at State Street coincident with the construction of State Street, subject to VDOT approval. Said improvement will also require the lowering of the grade of Route 7 in order to provide adequate clearance beneath the Silver Line Metro-rail bridge structure.

37. **Route 7/Spring Hill Road Intersection Improvement.**

A. If not previously constructed by others, the Applicant shall design and construct improvements to the Route 7/Spring Hill Road intersection to provide a second westbound left-turn lane on Route 7 and an appropriate receiving lane on Spring Hill Road as may be approved by VDOT. The Applicant shall also provide signal modification at the intersection as directed by VDOT.

B. The site plan and/or public improvement plan for the left turn lane and related signal modifications described in Paragraph A above shall be approved prior to or concurrent with the site plan approval for the first new building to be constructed on the Property. The left turn lane and related signal modifications shall be constructed and open to the public prior to the issuance of the first RUP or Non-RUP for the first new building to be constructed on the Property. The Applicant shall be entitled to any escrowed contributions for the improvements received by the County pursuant to proffers associated with adjacent applications RZ 2011-HM-012 and RZ 2011-HM-013.

C. Prior to the issuance of the first Non-RUP or RUP for the first new building to be constructed on the Property, the Applicant shall escrow $45,000 with LDS as the Property’s pro-rata share towards the construction costs of a northbound right turn lane on Spring Hill Road at Route 7.

38. **Route 7 Improvement.** The Applicant shall provide a contribution toward the construction of access improvements to Route 7, equal to $0.12 for each square foot of building constructed on the Property. Said contribution to Fairfax County shall be made upon site plan approval for each new building and shall be based on the site plan approved GFA for each building.

39. **Spring Hill Road/International Drive/Jones Branch Drive Intersection Improvements.** The Applicant shall provide a contribution toward the construction of improvements to the Spring Hill Road/International Drive/Jones Branch Drive intersection or other road improvements in the Tysons West area equal to $0.08 for each square foot of building constructed on the Property. Said contribution to Fairfax County shall be made upon site plan approval for each new building and shall be based on the site plan approved GFA for each building.

40. **Cumulative Transportation Phasing.** The transportation network which serves the subject property also serves the adjacent properties referred to as the *Dominion Square West and Dominion Square East* (identified as 2017 Tax Maps 29-3 ((1)) 2C1, 2C2, 2D, 3B, and
part 5.) As a result, the combined development level that may be permitted on the properties in sum is constrained by the capacity of the surrounding roadway network.

Development on the Property shall be phased to transportation improvements as follows:

A. Prior to the construction of 1) the connection of Spring Hill Road to Route 7 via State Street (by way of either Boone Boulevard, Roseline Street, or Dominion Street) or 2) the connection of Spring Hill Road to Gosnell Road via Boone Boulevard, overall development shall occur in general accordance with the following:

(i) Coincident with the submission of the first FDP and site plan associated with the first new office or residential building on the Property and with the submission of every new office and residential FDP and site plan thereafter, the Applicant shall provide a tabulation to LDS and FCDOT that summarizes the amount of cumulative development (existing, approved and proposed) constructed on both the Property and the Dominion Square West and East Land Bays individually and in total.

(ii) New development on the Property shall be limited to the following:

a. 440,000 GSF of office uses and 14,000 GSF of retail/service uses; or
b. 310,000 GSF of office uses, 510 residential dwelling units and 19,000 GSF of retail/service uses; or
c. 170,000 GSF of office uses, 935 residential dwelling units and 24,000 GSF of retail/service uses; or
d. 1,342 residential dwelling units and 20,000 GSF of retail/service uses; or

(iii) Any combination of uses which generate an equivalent or lesser number of peak hour, peak direction trips than those listed in Subsections (a) – (c) directly above shall be permitted when substantiated by a trip generation analyses prepared by the Applicant and approved by FCDOT.

B. However, development on the Property may exceed the development levels set forth in Paragraphs A (ii) above if the Applicant can demonstrate to FCDOT and VDOT that additional development can be accommodated as is or with either the acceleration of proffered improvements and/or the provision of alternative/additional improvements. At the time of FDP or FDPA submission for any new development that exceeds the limitations set forth in Paragraphs A (ii) above, the Applicant may submit a supplemental operational analysis to FCDOT and VDOT to assess the impacts of such additional development on the surrounding transportation network. The scope of said operational analysis shall be developed in conjunction with both agencies and reflect updated
information/traffic conditions. As part of the analysis, the Applicant may propose an acceleration of proffered improvements and/or the provision of alternative/additional improvements needed to support the level of new development proposed with the FDP or FDPA. Such improvements shall be subject to FCDOT and VDOT approval and the Applicant may provide such alternative/additional improvements without the necessity for a PCA, CDPA and/or FDPA.

(i) If the results of the operational analysis indicate that additional development levels beyond those listed in Paragraphs A (ii) can be accommodated as is or with either the acceleration of proffered improvements and/or the provision of alternative/additional improvements, then the Applicant may proceed with the development (as reflected in the operational analysis) provided those improvements identified by the operational analysis are constructed prior to the issuance of the first RUP or Non-RUP for the first new building which exceeds the prior levels of development.

(ii) If the Applicant proposes to accelerate any proffered improvements, he may utilize any such funds contributed by others towards those specific improvements if available and/or may request credit for accelerated improvements against proffered contributions for the Tysons Grid of Streets Transportation Fund or the Tysons-wide Transportation Fund.

C. Following the construction of a street grid connecting 1) Spring Hill Road to Route 7 via State Street or 2) Spring Hill Road to Gosnell Road via Boone Boulevard, development shall be permitted up to the maximum GFA reflected in the Development Tabulations.

D. Should a new connection to the Dulles Toll Road north or south of Route 7 be constructed before construction of 1) a connection from Spring Hill Road to Route 7 via State Street or 2) a connection from Spring Hill Road to Gosnell Road via Boone Boulevard, the Applicant may provide an operational analysis as outlined in Paragraph A (iii) to determine if additional development levels beyond those listed in Paragraph A (ii) can be accommodated.

41. Tysons Grid of Streets Transportation Fund. The Applicant shall make a contribution to the County’s Tysons Grid of Streets Transportation Fund for each market rate residential unit and each square foot of new non-residential space constructed on the Property in keeping with the rates and applicable rate adjustments set forth in the Guidelines for the Tysons Grid of Streets Transportation Fund endorsed by the Board of Supervisors on January 8, 2013 (the “Grid Guidelines”). The Applicant shall receive and deduct credits against the contributions as approved by the County in conformance with the Grid Guidelines. This contribution is not subject to further adjustment outlined in Proffer 72 and shall not apply to any public-use facilities constructed on the Property. The contribution shall be paid on or before the issuance of the initial RUP or Non-RUP for the
building based on the actual GFA of non-residential space and/or the actual number of market rate residential units in the building.

42. **Tysons-wide Transportation Contributions – Table 7 Improvements.** The Applicant shall make a contribution to the County’s Tysons-wide Transportation Fund for each market rate residential unit and each square foot of new non-residential space constructed on the Property in keeping with the rates and applicable rate adjustments set forth in the *Guidelines for the Tysons-wide Transportation Fund* endorsed by the Board of Supervisors on January 8, 2013 (the “Tysons-wide Guidelines”). The Applicant shall receive and deduct credits against the contributions as approved by the County in keeping with the Tysons-wide Guidelines. This contribution is not subject to further adjustment outlined in Proffer 72 and shall not apply to any public-use facilities constructed on the Property. The contribution shall be paid on or before the issuance of the initial RUP or Non-RUP for the building based on the actual GFA of non-residential space and/or the actual number of market rate residential units in the building.

43. **Leesburg Pike Signal Optimization.** Concurrent with the approval of the first site plan for the second new building to be constructed on the Property, the Applicant shall contribute a total of $12,500 to be used to modify the signal timings in the Route 7 corridor between Route 123 and the Dulles Access Road. If at time of site plan submission for the final new building on the Property, signal timing modifications have not been requested by VDOT for the Route 7 corridor, the County may utilize those funds for other transportation improvements/enhancements in the Tysons West District.

44. **Construction Management Plan.** The Applicant shall prepare and implement a construction management plan during construction of each phase of development, as appropriate, so as to ensure safe and efficient pedestrian and vehicle circulation at all times on the Property and on the public roadways adjoining the Property. The management plan for each phase shall specify how sidewalk access will be provided along at least one side of Spring Hill Road during the course of construction. The management plans shall identify anticipated construction entrances, construction staging areas, construction vehicle routes and procedures for coordination with FCDOT and/or VDOT concerning construction material deliveries, lane, street or sidewalk closures, off-street construction worker parking, and/or other construction related activities to minimize disturbance on the surrounding street and sidewalk network. The Applicant shall inform all contractors and subcontractors of the plans for construction related traffic circulation and construction worker parking. Signs providing such information shall be published in both English and Spanish and posted at all construction entrances.

Such plan shall be prepared by a qualified professional and submitted for review and comment to the VDOT, FCDOT and LDS prior to issuance of the site plan for each phase.

**BICYCLE FACILITIES, BUS SHELTER AND PEDESTRIAN IMPROVEMENTS**

45. **Bicycle Circulation.** In combination with the street and streetscape improvements identified in these Proffers, the Applicant shall provide pavement and striping for on-road
bicycle lanes along the Property's frontage with Spring Hill Road. It is anticipated that pavement and striping for on-road bicycle lanes along the Roseline Street and Boone Boulevard will be provided with the ultimate construction of these streets by others. Such lanes shall typically be four (4) to six (6) feet in width as shown on Sheet C-22 with the final dimension determined at the time of FDP approval. Bicycle lane striping shall be subject to approval by VDOT.

46. Bicycle Parking. The Applicant shall provide bicycle racks and bike storage areas throughout the Property, the specific locations of which shall be determined at the time of FDP approval. The bike racks shall be inverted U-style racks or other design compatible with the UDG and approved by FCDOT. The total number of bike parking/storage spaces shall be determined in cooperation with the County Bike Coordinator and as specified in the County's Bicycle Parking Guidelines.

47. Bike Share Facility. The Applicant shall contribute $20,000 to Fairfax County in support of bike share facilities in the vicinity of the Property. Said contribution shall be made prior to the issuance of the first RUP or Non-RUP for the first new building to be constructed on the Property.

48. Marked Crosswalks. The Applicant shall install marked pedestrian crosswalks at all signalized intersections adjoining the Property, subject to VDOT approval.

PARKING

49. Zoning Ordinance Requirements. Parking on the Property shall be provided in accordance with the parking requirements for the PTC District set forth in Sect. 6-509 and Article 11 of the Zoning Ordinance, and as shown on the CDP. The exact number of spaces to be provided shall be refined with approval of the FDPs and determined at the time of site plan approval based on the specific uses, number of residential units and bedroom mix. If changes in the mix of uses or residential bedroom mix result in parking greater than that anticipated on the CDP, the additional parking spaces shall be accommodated within the proposed parking structures, without increasing the height of the parking structures.

50. Phasing of Parking. Parking shall be provided in phases concurrent with development of the Property. Parking spaces in excess of the maximum parking rates set forth in the Zoning Ordinance may be provided in the early phases of development of the Property, in particular to facilitate elimination of the Parking Easement, provided that at the completion of the Full Build-Out Plan for the Property, the maximum parking rates are not exceeded. A parking tabulation shall be provided with each FDP and site plan. Required parking spaces for an individual building need not be provided on the parcel on which the building is located, but shall be provided within the Property.

51. Parking Spaces Along Streets.

A. On-street parking spaces along the public street frontages shall be constructed as generally shown on the CDP and as may be adjusted at the time of FDP and/or site plan approval. If requested by the County and/or VDOT, signs shall be
installed that restrict the use of those public on-street parking spaces. Public on-
street parking spaces would be in addition to the total number of parking spaces
required by the Zoning Ordinance.

B. The Applicant reserves the right to restrict the use of spaces along any private
streets and on any future public streets prior to dedication, through appropriate
signage or such other means as the Applicant determines appropriate, that
otherwise are not required to satisfy the parking requirements for use as
temporary or short term parking, car-sharing parking and/or similar uses.

52. Future Parking Revisions.

A. The Applicant reserves the right to provide parking at revised ratios (ratios
referring to the number of parking spaces provided per dwelling unit for
residential uses or per square foot of GFA for office and retail uses) as may be
permitted by a future amendment to the Zoning Ordinance. Optional use of
revised ratios shall not require a CDPA or PCA, provided there is no increase in
the size or height of above-grade parking structures.

B. The Applicant reserves the right to seek a special exception for an increase in
parking for the Property; such special exception application shall not require a
CDPA or PCA, provided there is no increase in the size or height of above-grade
parking structures.

53. Parking Stipulations.

A. The Applicant shall be permitted to install and maintain parking controls and/or
fencing on its existing surface parking lots, without the requirement for a FDP, in
order to control Metro-related parking by the general public. Pedestrian
circulation on the Property shall not be unduly impeded by such fencing.

B. The sale or lease rates of parking spaces shall be “unbundled” from the purchase
price or lease rate of the individual dwelling units; meaning a unit’s purchase
price or lease rate shall be exclusive of parking costs.

TRANSPORTATION DEMAND MANAGEMENT

54. Tysons Transportation Management Association. The Applicant shall contribute to
Fairfax County funds for the establishment of a transportation management association
for the Tysons Corner Urban Center (the “TMA”) as outlined below:

A. The Applicant shall make a one-time contribution to the establishment of this
future TMA based on a participation rate of $0.10 per gross square foot of new
office uses and $0.05 per gross square foot of new residential uses to be
constructed on the Property.

B. Twenty five percent (25%) of the total contribution to the TMA shall be paid
upon site plan approval for the first new residential or office building to be
constructed. An additional 25% of the total contribution to the TMA shall be paid prior to issuance of the first RUP or Non-RUP for the first new residential or office building to be constructed. The remaining 50% shall be contributed in two (2) equal installments of 25% each and paid at the time of issuance of the first RUP or Non-RUP for each of the next two (2) new buildings to be constructed on the Property but in any event no later than ten (10) years from the date of this rezoning approval.

C. The Applicant may, in its sole discretion, join or otherwise become associated with the TMA established for the purpose of administering TDM programs in the Tysons Corner Urban Center and transfer some functions of this TDM Program to the TMA. Further, if determined by FCDOT that a proactive, private TDM program is no longer necessary, the TDM structure in Proffer 55 may be rendered null and void in whole or in part, without the need for a PCA.

55. Transportation Demand Management. The Applicant shall fund, implement and administer a transportation demand management program for the Property as described in this Proffer (the "TDM Program"). It is intended that the first new building to be constructed on the Property will initiate implementation of what will become a Property-wide TDM program that later buildings to-be-constructed on the Property will join.

A. Implementation Plan. The proffered elements of the TDM Program as set forth below are more fully described in the Sunburst at Spring Hill Metro Transportation Demand Management Plan prepared by Wells + Associates, Inc. dated May 2, 2014 (the "TDM Plan") as may be amended. It is the intent of this Proffer that the TDM Plan adapt over time to respond to the changing transportation related circumstances of the Property, the surrounding community and the region, as well as to technological and/or other improvements, all with the objective of meeting the trip reduction goals set forth herein. Accordingly, modifications, revisions, and supplements to the TDM Plan as may be approved by the FCDOT can be made without the need for a PCA provided that the TDM Plan continues to reflect the proffered elements of the TDM Program as set forth below.

B. Responsible Party. The Applicant, or any successor other than the UOA or its equivalent, shall remain obligated under this Proffer until such time as three consecutive post Stabilization trip counts reveal that the applicable vehicle trip reduction goals are being met (the "Applicant Control Period"). At the end of the Applicant Control Period, the UOA or equivalent shall become obligated under this Proffer and Applicant, or any successor other than the UOA or equivalent, shall have no further obligation with respect to this Proffer.

C. Definitions. For purposes of this Proffer, "Stabilization" shall be deemed to occur one-year following issuance of the last initial RUP or Non-RUP for the final new office or residential building to be constructed on the Property. "Pre-stabilization" shall be deemed to occur any time prior to Stabilization.
D. Trip Reduction Objective. The objective of this TDM Program shall be to reduce the vehicle trips generated by new residents and new office tenants of the Property, during weekday peak hours, by meeting the percentage vehicle trip reductions set forth below. These trip reduction percentages shall be multiplied by the total number of vehicle trips that would be expected to be generated by the uses developed on the Property as determined by the application of the Institute of Traffic Engineers, 8th Edition, Trip Generation rates and/or equations (the "ITE Trip Generation"), and the number of trips determined by the product of such equation shall be referred to herein as the "Maximum Trips After Reduction". For purposes of this calculation, the maximum number of dwelling units or gross floor area proposed to be constructed in each new residential or new office building on the Property as determined at the time of site plan approval for each building shall be applied to the calculation described in the preceding sentence. The target reductions shall be as follows:

<table>
<thead>
<tr>
<th>Tysons-Wide Development Level</th>
<th>Target Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 65 million SF of GFA</td>
<td>35%</td>
</tr>
<tr>
<td>65 million SF of GFA</td>
<td>40%</td>
</tr>
<tr>
<td>84 million SF of GFA</td>
<td>45%</td>
</tr>
<tr>
<td>90 million SF of GFA</td>
<td>48%</td>
</tr>
<tr>
<td>96 million SF of GFA</td>
<td>50%</td>
</tr>
<tr>
<td>105 million SF of GFA</td>
<td>53%</td>
</tr>
<tr>
<td>113 million SF of GFA</td>
<td>55%</td>
</tr>
</tbody>
</table>

The trip reduction goals outlined above are predicated on the achievement of specific development levels within the Tysons Corner Urban Center as anticipated in the Comprehensive Plan. Prior to undertaking trip measurements, the TDM Program Manager ("TPM") shall, in consultation with the County, provide a summary of the then existing development levels in Tysons (based on RUPs and Non-RUPS issued) in order to determine the appropriate vehicle trip reduction goal.

If through an amendment to the Comprehensive Plan, the Board of Supervisors should subsequently adopt a goal for trip reductions that is lower than that committed to in this Proffer, then the provisions of this Proffer shall be adjusted accordingly without requiring a PCA.

E. Process of Implementation. The TDM Program shall be implemented as follows, provided that modifications, revisions, and supplements to the implementation process as set forth herein as may be approved by the FCDOT can be made without the need for a PCA.

(i) TDM Program Manager ("TPM"). If not previously appointed, the Applicant shall appoint and continuously employ, or cause to be employed, a TPM for the Property. If not previously appointed, the TPM
shall be appointed by the Applicant no later than sixty (60) days after the issuance of the first building permit for the first new building to be constructed on the Property. During the initial stages of development, the TPM duties may be part of other duties associated with the appointee. The Applicant shall notify FCDOT and in writing within 10 days of the appointment of the TPM. Thereafter the Applicant shall do the same within ten (10) days of any change in such appointment. Following the termination of the Applicant Control Period, the UOA shall be responsible for employment of the TPM.

(ii) TDM Work Plan, Annual Report and TDM Budget. The TPM shall prepare and submit to FCDOT an initial TDM Work Plan ("TDMWP") and Budget no later than 180 days after issuance of the first building permit for the first new building on the Property. The TDMWP shall include, at a minimum:

a. Details as to the components of the TDM program that will be put into action that year;

b. Any revisions to the budget needed to implement the program for the coming calendar year;

c. A summary of the currently existing/approved development levels in the Tysons Corner Urban Center in consultation with the County (based on RUPS and Non-RUPs issued) in order to determine the appropriate vehicle trip reduction goals;

d. A determination of the applicable Maximum Trips After Reduction for the Property;

e. Provision of the specific details associated with the monitoring and reporting requirements; and

f. Submission of the results of any Person Surveys and Vehicular Traffic Counts conducted on the Property.

The TDMWP shall be reviewed by FCDOT. If FCDOT has not responded with any comments within sixty (60) days after submission then the TDMWP shall be deemed approved and the TDM program shall be implemented. If FCDOT responds with comments on the TDMWP, then the TPM will meet with FCDOT staff within fifteen (15) days of receipt of the County’s comments. Thereafter but in any event, no later than thirty (30) days after the meeting, the TPM shall submit such revisions to the TDMWP as discussed and agreed to with FCDOT and begin implementation of the approved program. Each calendar year thereafter, but no later than February 1, the TPM shall submit a report which summarizes the results of the previous year’s TDM Program, incorporates any new construction on the Property, proposes modifications or
enhancements to program elements, and establishes a budget to cover the costs of implementation of the program for the succeeding year (the "Annual Report"). The Annual Report and TDM Budget shall be submitted to FCDOT and reviewed in the same manner as outlined above for the TDMWP and TDM Budget. The expected annual amounts of the Budget are further described in Section 4 of the TDM Plan.

(iii) Coordination with RZ 2011-HM-012 and RZ 2011-HM-013. At such time as the adjacent properties which are the subject of approved application RZ 2011-HM-012 and RZ 2011-HM-013, (the “adjacent property”) implements a TDM Program, the Applicant shall coordinate its TDM programmatic efforts with the adjacent property, as appropriate, under one Administrative Group (“AG”). The AG will appoint a single TDM Program Manager (“Joint TPM”) who will be responsible for submitting a collective Annual Report for both properties. The Joint TPM may or may not be the same individual designated as the Applicant’s TDM Program Manager in accordance in Paragraph H (i) and whose duties are described elsewhere in this Proffer. The Joint TPM shall serve as the FCDOT point of contact for both developments and the Applicant shall notify FCDOT of the appointment of the Joint TPM in accordance with the timing requirements outlined in Paragraph H (i).

The collective Annual Report shall contain those elements described in Paragraph H (ii) for each individual development and, additionally, shall include a description of the internal trip reductions achieved between the two properties under the AG. Each applicant shall be responsible for preparing its individual TDM Budget, as described in Paragraph H (ii), and each TDM Budget shall be included with the collective Annual Report submitted by the Joint TPM.

Notwithstanding the above, the Applicant is in no way responsible for the implementation and success of the TDM Program associated with the adjacent property and any remedial measures and/or penalties associated with the adjacent property are not the responsibility of this Applicant.

F. TDM Account. The Applicant, through the TPM, shall establish a separate interest bearing account with a bank or other financial institution qualified to do business in Virginia as approved by Fairfax County (the "TDM Account") within 30 days after approval of the Annual Report. All interest earned on the principal shall remain in the TDM Account and shall be used by the TPM for TDM purposes. The TDM Account shall be funded solely by the Applicant, through the TPM, until the end of the Applicant Control Period. At the end of the Applicant Control Period, a line item for the TDM Account shall be included in the UOA, or its equivalent, budget. The governing documents that establish and control the development shall provide that the TDM Account shall not be eliminated as a line item in the governing budget and that funds in the TDM Account shall not be
utilized for purposes other than to fund TDM strategies/programs and/or specific infrastructure needs as may be approved in consultation with FCDOT.

Funding of the TDM Account shall be in accordance with the budget for the TDM Program elements to be implemented in a given year. In no event shall the TDM Budget for the Property overall be required to exceed $76,750 and in no event shall an individual building's obligation to fund the TDM Budget exceed the proportion set forth in the Implementation Plan (these amounts shall be adjusted annually as specified in Proffer 72). The TPM shall provide written documentation to FCDOT demonstrating the establishment of the TDM Account within ten (10) days of its establishment. The TDM Account shall be replenished annually thereafter following the establishment of each year's TDM Budget. The TDM Account shall be managed by the TPM.

G. TDM Remedy Fund. The "TDM Remedy Fund" is an account in to which the Applicant shall, through the TPM, deposit remedy payments as required to be paid pursuant to this Proffer. The TPM may withdraw funds from the Remedy Fund for the implementation of additional TDM program elements/incentives associated with Solutions Plaza in consultation with FCDOT.

Funds from the TDM Remedy Fund shall be drawn upon only for purposes of immediate need for TDM funding and may be drawn on prior to any TDM Budget adjustments as may be required. To secure the Applicant's obligations to make payments into the TDM Remedy Fund, the Applicant shall provide the County with a letter of credit or a cash escrow as further described below.

Prior to the issuance of the first RUP or Non-RUP for each new building on the Property, the Applicant (or its successor owner or developer, but not the UOA) shall:

(i) Establish the TDM Remedy Fund, if not previously established by the TPM, and

(ii) Deliver to the County a clean, irrevocable letter of credit issued by a banking institution approved by the County or escrow cash in an interest-bearing account with an escrow agent acceptable to LDS to secure the Applicant's obligations to make payments into the TDM Remedy Fund (the "Letter(s) of Credit or Cash Escrow(s)"). The Letter(s) of Credit or Cash Escrow(s) shall initially be issued in an amount equal to $0.40 for each square foot of new office GFA and $0.30 for each gross square foot of residential GFA shown on the approved site plan for each new building on the Property. Until the Letter of Credit or Cash Escrow for each new building shall have been posted, the figures in the preceding sentence shall be adjusted annually from the first day of the calendar month following the date on which the first RUP or Non-RUP, as the case may be, for the first new building within the Property has been issued and shall change as specified in Proffer 72. The Letter(s) of Credit or Cash Escrow(s) shall
name the Applicant/TPM as the beneficiary and shall permit partial draws or a full draw. The foregoing stated amount(s) of the Letter(s) of Credit or Cash Escrow(s) shall be reduced by the sum of any and all previous draws under the Letter(s) of Credit or Cash Escrow(s).

H. TDM Incentive Fund. The “TDM Incentive Fund” is an account into which the Applicant, through the TPM, shall deposit contributions to fund a multimodal incentive program for initial purchasers/lessees within the Solutions Plaza development. Such contributions shall be made one time on a building by building basis at the rate of $0.02 per gross square foot of new office or residential uses to be constructed on the Property at the time of issuance of the first initial RUP or Non-RUP for each building.

I. TDM Penalty Fund. The "TDM Penalty Fund" is an account in to which the Applicant shall, through the TPM, deposit penalty payments as may be required to be paid pursuant to this Proffer for non-attainment of trip reduction goals. The County may withdraw funds from the TDM Penalty Fund for the implementation of additional TDM program elements/incentives and/or congestion management in Tysons Corner. To secure the Applicant's obligations to make payments into the TDM Penalty Fund, the Applicant shall provide the County with a letter of credit or a cash escrow as further described below.

Prior to the issuance of the first RUP or Non-RUP for each new building on the Property, the Applicant (or its successor owner or developer, but not the UOA) shall:

(i) Establish the TDM Penalty Fund, if not previously established by the TPM, and

(ii) Deliver to the County a clean, irrevocable letter of credit issued by a banking institution approved by the County or escrow cash in an interest-bearing account with an escrow agent acceptable to LDS to secure the Applicant's obligations to make payments into the TDM Penalty Fund (the “Letter(s) of Credit or Cash Escrow(s)”). The Letter(s) of Credit or Cash Escrow(s) shall initially be issued in an amount equal to $0.10 for each square foot of new office GFA and $0.05 for each gross square foot of residential GFA shown on the approved site plan for each new building on the Property. Until the Letter of Credit or Cash Escrow for each new building shall have been posted, the figures in the preceding sentence shall escalate annually from the first day of the calendar month following the date on which the first RUP or Non-RUP, as the case may be, for the first new building within the Property has been issued and shall change as specified in Proffer 72. The Letter(s) of Credit or Cash Escrow(s) shall name the County as the beneficiary and shall permit partial draws or a full draw. The foregoing stated amount(s) of the Letter(s) of Credit or Cash Escrow(s) shall be reduced by the sum of any and all previous draws
under the Letter(s) of Credit or Cash Escrow(s) and payments by the Applicant (or the TPM) into the TDM Penalty Fund.

J. Monitoring. The Applicant shall verify that the proffered trip reduction goals are being met through the provision of Person Surveys and/or Vehicular Traffic counts of new residential and new office uses and/or other such methods as may be reviewed and approved by FCDOT. The results of such Person Surveys and Vehicular Traffic Counts shall be provided to FCDOT as part of the Annual Reporting process. Person Surveys shall be conducted and Vehicular Traffic Counts collected for the Property one year following issuance of the final initial RUP or Non-RUP for the first new residential or office building to be constructed on the Property.

Person Surveys shall be conducted every three (3) years and Vehicular Traffic Counts shall be collected annually until the results of three consecutive annual traffic counts show that the applicable Maximum Trips After Reduction for the Property are not exceeded. At such time as three consecutive traffic counts show that the applicable Maximum Trips After Reduction for the Property has not been exceeded, the Applicant Control Period associated with the Property shall terminate. At such time and notwithstanding the provisions below, Person Surveys and Vehicular Traffic Counts shall thereafter be provided every five (5) years. Notwithstanding the aforementioned, at any time prior to or after Stabilization, FCDOT may suspend such Person Surveys and/or Vehicular Traffic Counts if conditions warrant such.

K. Remedies and Penalties

(i) Pre-Stabilization. If the TDM program monitoring reveals that the Maximum Trips After Reduction for the Property is exceeded, then the Applicant shall meet and coordinate with FCDOT to address, develop and implement such remedial measures as may be identified in the Implementation Plan and Annual Report.

a. Such remedial measures shall be funded by the Remedy Fund, as may be necessary, and based on the expenditure program that follows:

<table>
<thead>
<tr>
<th>Maximum Trips Exceeded</th>
<th>Remedy Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 1%</td>
<td>No Remedy needed</td>
</tr>
<tr>
<td>1.1% to 3%</td>
<td>1% of Remedy fund</td>
</tr>
<tr>
<td>3.1% to 6%</td>
<td>2% of Remedy Fund</td>
</tr>
<tr>
<td>6.1% to 10%</td>
<td>4% of Remedy Fund</td>
</tr>
<tr>
<td>Over 10%</td>
<td>8% of Remedy Fund</td>
</tr>
</tbody>
</table>

b. If the results of the Vehicular Traffic Counts conducted during Pre-Stabilization show that the trip reduction goals have been met site-wide for three (3) consecutive years in accordance with the goals
outlined on the table below, then a portion of the Remedy Fund as outlined in the same table below shall be released back to the building owner(s). The amount released will be relative to the amount contributed by those buildings constructed and occupied at the time of Vehicular Traffic Counts. Any funds remaining in the Remedy Fund after such release will be carried over to the next consecutive three (3) year period.

c. There is no requirement to replenish the TDM Remedy Fund at any time. Any cash left in the Remedy Fund will be released to the TPM for final distribution to the owners once three consecutive annual Vehicular Traffic Counts conducted after Stabilization show that the trip reduction goals have been met.

<table>
<thead>
<tr>
<th>Up to 65,000,000 Square Feet of GFA in Tysons</th>
<th>65-84,000,000 Square Feet of GFA in Tysons</th>
<th>84-90,000,000 Square Feet of GFA in Tysons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meet or Exceed Trip Goal for 3 years by:</td>
<td>Meet or Exceed Trip Goal for 3 years by:</td>
<td>Meet or Exceed Trip Goal for 3 years by:</td>
</tr>
<tr>
<td>0% - 4.9%</td>
<td>0.0% - 4.9%</td>
<td>0.0% - 4.9%</td>
</tr>
<tr>
<td>5% - 10%</td>
<td>5% - 10%</td>
<td>5% - 8%</td>
</tr>
<tr>
<td>10.1% - 15%</td>
<td>10.1% - 13%</td>
<td>8.1% - 10%</td>
</tr>
<tr>
<td>15.1% - 18%</td>
<td>13.1% - 15%</td>
<td>&gt;10%</td>
</tr>
<tr>
<td>18.1% - 20%</td>
<td>&gt;15%</td>
<td>100%</td>
</tr>
<tr>
<td>&gt;20%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>90-96,000,000 Square Feet of GFA in Tysons</th>
<th>96-113,000,000 Square Feet of GFA in Tysons</th>
<th>113,000,000+ Square Feet of GFA in Tysons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meet or Exceed Trip Goal for 3 years by:</td>
<td>Meet or Exceed Trip Goal for 3 years by:</td>
<td>Meet or Exceed Trip Goal for 3 years by:</td>
</tr>
<tr>
<td>0.0% - 4.9%</td>
<td>0.0% - 4.9%</td>
<td>&gt; 0.0%</td>
</tr>
<tr>
<td>5% - 8%</td>
<td>5%</td>
<td>100%</td>
</tr>
<tr>
<td>&gt;8%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Meet or Exceed Trip Goal for 3 years by:</th>
<th>Cumulative % Remedy Fund Returned</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.0% - 4.9%</td>
<td>80%</td>
</tr>
<tr>
<td></td>
<td>5% - 8%</td>
<td>90%</td>
</tr>
<tr>
<td></td>
<td>&gt;8%</td>
<td>100%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Meet or Exceed Trip Goal for 3 years by:</th>
<th>Cumulative % Remedy Fund Returned</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0.0% - 4.9%</td>
<td>90%</td>
</tr>
<tr>
<td></td>
<td>5%</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td>&gt;0.0%</td>
<td>100%</td>
</tr>
</tbody>
</table>
(ii) **Following Stabilization,** If the TDM program monitoring reveals that the Maximum Trips After Reduction for the Property is exceeded, then the TPM shall meet and coordinate with FCDOT to address, develop and implement such remedial measures as may be identified in the Implementation Plan and Annual Report and funded by the Remedy Fund as may be necessary commensurate with the extent of deviation from the Maximum Trips After Reduction goal and as set forth in accordance with the expenditure schedule outlined above.

a. If the results of the Vehicular Traffic Counts conducted upon Stabilization show that the trip reduction goals have been met site-wide for three (3) consecutive years in accordance with the goals outlined in the table above, then any remaining Remedy Funds shall be released back to the building owners through the TPM.

b. If despite the implementation of remedial efforts, the applicable Maximum Trips After Reduction (based on the development levels then existing) are still exceeded after three (3) consecutive years, then, in addition to addressing further remedial measures as set forth in this Proffer, the TPM shall be assessed a penalty according to the following:

<table>
<thead>
<tr>
<th>Exceeded Trip Goals</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1%</td>
<td>No Penalty Due</td>
</tr>
<tr>
<td>3.1% to 6%</td>
<td>10% of Penalty Fund</td>
</tr>
<tr>
<td>6.1% to 10%</td>
<td>15% of Penalty Fund</td>
</tr>
<tr>
<td>Over 10%</td>
<td>20% of Penalty Fund</td>
</tr>
</tbody>
</table>

Penalties may be incurred in subsequent Stabilization years during the Applicant Control Period when the applicable Maximum Trips After Reduction for the Property continue to be exceeded and provided there are funds still available in the TDM Penalty Fund.

(iii) The Applicant shall make the payments required by this Proffer into the TDM Penalty Fund upon written demand by the County, and the County shall be authorized to withdraw the amounts on deposit in the TDM Penalty Fund. If the Applicant fails to make the required penalty payment to TDM Penalty Fund within thirty (30) days after written demand, the County shall have the ability to withdraw the penalty amount directly from the Letter(s) of Credit or Cash Escrow(s).

(iv) The maximum amount of penalties associated with the Property, and the maximum amount the Applicant shall ever be required to pay pursuant to the penalty provisions of this Proffer, including prior to and after Stabilization, shall not in the aggregate exceed the amount of the Letter(s) of Credit or Cash Escrow(s) determined and computed pursuant to the provisions above. There is no requirement to replenish the TDM Penalty
Fund at any time. Upon the end of the Applicant Control Period, the Letter(s) of Credit and/or any cash left in the Cash Escrow(s) shall be released to the Applicant.

L. Additional Trip Counts. If an Annual Report indicates that a change has occurred that is significant enough to reasonably call into question whether the applicable vehicle trip reduction goals are continuing to be met, then FCDOT may require the Applicant (or UOA after termination of the Applicant Control Period) to conduct additional Trip Counts (pursuant to the methodology set forth in the Implementation Plan) within 90 days to determine whether in fact such objectives are being met. If any such Trip Counts demonstrate that the applicable vehicle trip reduction goals are not being met, then the Applicant or UOA shall meet with FCDOT to review the TDM strategies in place and to develop modifications to the TDM Plan to address the surplus of trips.

M. Review of Trip Reduction Goals. At any time concurrent with remedial actions and/or the payment of penalties as outlined above, the Applicant may request that FCDOT review the vehicle trip reduction goals established for the Property and set a revised lower goal for the Property consistent with the results of such surveys and traffic counts provided for by this Proffer. In the event a revised lower goal is established for the Property, the Maximum Trips After Reduction shall be revised accordingly for the subsequent review period.

N. Continuing Implementation. At the termination of the Applicant Control Period, the UOA shall bear sole responsibility for continuing implementation of the TDM Program and compliance with this Proffer. The UOA shall continue to administer the TDM Program in the ordinary course in accordance with this Proffer including submission of Annual Reports.

O. Notice to Owners. All owners of the Property shall be advised of the TDM Program set forth in this Proffer. UOA members shall be informed of their funding obligations pursuant to the requirements of this Proffer prior to the purchase of units and the requirements of the TDM Program, including the annual contribution to the TDM Program (as provided herein), shall be included in all initial purchase documents and within the UOA documents.

P. Enforcement. If the TPM fails to timely submit a report to FCDOT as required by this Proffer, the TPM shall have sixty (60) days within which to cure such violation. If after such sixty (60) day period the TPM has not submitted the delinquent report, then the Applicant shall be subject to a penalty of $100 per day not to exceed $36,500 for any one incident. Such penalties shall be payable to Fairfax County to be used for transit, transportation, or congestion management improvements within the vicinity of the Property.

56. Transportation Demand Management for Retail Uses. Certain components of the TDM Plan described in Proffer 55 are applicable to, and will benefit, the proposed retail uses on the Property. Therefore, the Applicant shall provide an additional TDM program that
is tailored to specifically serve the Retail Uses (the "Retail TDM Program"). In no event will monitoring or penalties be assessed against the retail uses which may be established on the Property.

**AFFORDABLE/WORKFORCE HOUSING**

57. **Affordable Dwelling Units.** If required by the provisions of Part 8 of Article 2 of the Zoning Ordinance, Affordable Dwelling Units ("ADUs") shall be provided pursuant to said regulations unless modified by the ADU Advisory Board.

58. **Workforce Dwelling Units.** In addition to any ADUs that may be required pursuant to these Proffers, the Applicant shall also provide for-sale and/or rental housing units on the Property, or off-site as determined at time of FDP submission, in accordance with the Board of Supervisors' Tysons Corner Urban Center Workforce Dwelling Unit Administrative Policy Guidelines dated June 22, 2010 (the "WDU Guidelines"). Workforce Dwelling Units ("WDUs") shall be provided such that the total number of ADUs, if any, plus the total number of WDUs results in not less than twenty percent (20%) of the total residential units constructed as part of the Proposed Development. The 20% applies to the total number of dwelling units to be constructed on the Property plus any WDUs that may be provided off-site. If ADUs are provided in the development, both the ADUs and the ADU bonus units shall be deducted from the total number of dwelling units on which the WDU calculation is based.

The WDU's generated by each residential building on the Property shall be provided within said building or off-site. Any WDUs provided off-site shall be located within the Tysons Corner Urban Center or as approved by DPZ. In addition, the Applicant reserves the right to consolidate the WDUs into one or more buildings with the build-out of the Property and thereby increase the number of WDU units in one or more buildings beyond twenty percent (20%) with a corresponding decrease in the number of WDU units in the other buildings. However, if any residential building is constructed with a height in excess of 225 feet, at least 20% of that building's units shall be WDUs. The Applicant reserves the right to provide WDUs associated with for-sale condominiums as rental units in the residential rental buildings on the Property, provided that RUPs shall not be issued for more than seventy-five percent (75%) of the total number of condominiums until such time as RUPs have been issued for at least seventy-five percent (75%) of the associated WDUs in the rental building, or such later date as may be determined by the Zoning Administrator pursuant to Proffer 70. The WDUs in each building shall have a bedroom mix similar to that provided in the market rate units in such building. If the WDUs are constructed in a stand-alone building on or off-site, the bedroom mix of the WDUs shall be similar to the bedroom mix of the market rate units of the same unit type on the Property and such WDUs will include all of the income tiers as set forth in the WDU Guidelines. Additionally, in the event that parking spaces are guaranteed to be made available for lease to individual market rate dwelling units, at least one (1) parking space shall be made available for lease by each ADU and/or WDU in the development.

Notwithstanding the foregoing, the Applicant reserves 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 following approval of this Application. Such an agreement shall be on terms mutually acceptable to both the Applicant 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 solely in accordance with such an agreement and the provisions of this Proffer as it applies to WDUs shall become null and void. Such an agreement and any modifications thereto shall be recorded in the land records of Fairfax County.

59. **Non-Residential Contribution for Workforce Housing.** For the new office building to be constructed on the Property, the Applicant shall select, within its sole discretion, one of the following two options for contributing toward the provision of affordable and/or workforce housing within Tysons. These contributions shall be made to the Board of Supervisors to be deposited in a specific fund to be used solely for this purpose within Tysons and shall be payable at the time of issuance of the Non-RUPs for the new office building constructed on the Property. The options shall consist of either (i) a one-time contribution of $3.00 for each square foot of GFA of new office use excluding any ground floor retail/services uses and public uses, or (ii) an annual contribution of $0.25 for each square foot of GFA of new office or hotel excluding any ground floor retail/services uses and public uses continuing for a total of sixteen (16) years.

**PARK AND RECREATIONAL FACILITIES**

60. **Publicly Accessible Park Space.** The Applicant shall provide an approximate 9,400 square foot, street level public plaza accessible to the general public on the Property between Roseline Street and Building S3 as depicted on the CDP. The public plaza shall include special enhanced pavement, movable tables and chairs, planters, and specialty lighting. More specific details shall be determined at time of FDP approval for Building S3, and construction shall be concurrent with the development of the Full Build-Out Option of Building S3, and open to the public prior to the issuance of the first RUP for the Full Build-Out Option of Building S3. The Applicant shall retain the area(s) in fee simple, record public access easement(s) ensuring that the park space is open to the public for periods of times consistent with urban parks subject to usual and customary rules and regulations, and provide for perpetual private maintenance. A wayfinding and signage system shall be developed in coordination with FCPA at the time of building construction and installed by the Applicant to ensure the public can easily identify and access this park space.

61. **Old Courthouse Branch Stream Valley Park Contribution.** Prior to the issuance of the first RUP or Non-RUP on the Property, the Applicant shall contribute the sum of $50,000 to the Fairfax County Park Authority for use in the acquisition, design, and construction of improvements to the Old Courthouse Branch Stream Valley Park.

62. **Park Contribution.** To further address the Comprehensive Plan's recommendations regarding the provision of public park land in Tysons, the Applicant shall contribute to the development of public park land serving the Tysons area in accordance with one of the following options.
A. The Applicant may enter into a private agreement with the applicant in adjacent rezoning application RZ 2011-HM-013 to provide improvements to the planned Vesper Trailhead Park, an approximate 33,000 square foot park located on the south side of Boone Boulevard on property subject to RZ 2011-HM-013. Park features shall include benches, naturalized landscaping, shade structures, adult fitness equipment, and way-finding signage identifying the trailhead for the Old Courthouse Spring Branch trail network. The soft and hard costs associated with the Vesper Trailhead Park improvements shall be shared equally between the Applicant and the applicant/successor of RZ 2011-HM-013. Prior to the issuance of RUP or Non-RUP for the first new building to be constructed on the Property, the Applicant shall demonstrate that it has entered into a binding agreement with the RZ 2010-PR-022 Property.

B. The Applicant may establish an interest-bearing account referred to herein as the “Old Courthouse Branch Stream Valley Park Fund” and deposit:

(i) the sum of $0.12 for each square foot of GFA constructed on the Property, based on the actual GFA to be constructed and due at the issuance of the first RUP or Non-RUP for the applicable building.

(ii) Upon thirty (30) day written notice from Fairfax County, the Applicant shall release the funds in the Old Courthouse Branch Stream Valley Park Fund, including any accrued interest, to Fairfax County or its designee for use in the acquisition, design and construction of improvements to the Old Courthouse Branch Stream Valley Park.

63. Private Amenities and Recreation Facilities for Residents. The Applicant shall provide on-site recreational facilities for the future residents of the Property. In fulfillment of requirements pursuant to Paragraph 2 of Section 6-508 of the Zoning Ordinance regarding developed recreational facilities, the Applicant shall expend a minimum of $1,800.00 per market-rate and workforce residential unit on such recreation facilities. Prior to final bond release for each residential building, the balance of any funds not expended on-site shall be contributed to the FCPA for the provision of recreation facilities serving Tysons Corner.

The specific facilities and amenities to be provided for each individual residential building or shared between two or more buildings, which shall be for the use and enjoyment of those building(s) residents, shall be determined at the time of FDP approval. Amenities shall include active recreation facilities, which may include but not be limited to:

A. Private exterior recreational areas/courtyards on the upper level of the parking podiums and/or on the rooftops, as determined at the time of FDP approval, with seating areas, specialty landscaping, recreational game tables, sport/bocce courts, lawn and/or shaded areas and hardscape areas.
B. Private exterior recreational area on the roof or podium level with facilities such as a swimming pool, lounge deck, and shade structure;

C. Interior fitness center(s) with exercise equipment such as stationary bikes, treadmills, weight machines, free weights, etc.; and

D. Clubroom(s) for resident gatherings and/or media/entertainment center(s).

64. **Athletic Field Contribution.** The Applicant shall provide a contribution of $2.38 for each square foot of new space constructed in Buildings S1, S2 and S3 to the FCPA for the acquisition and/or development of athletic fields serving the Tysons area, as determined by the Hunter Mill Supervisor in concert with the FCPA. The contribution associated with each building shall be based on the actual GFA in each building and shall be made prior to the issuance of a RUP or Non-RUP for the applicable building. This contribution shall not apply to any public use facilities constructed on the Property.

**PUBLIC FACILITIES**

65. **Public Use.**

A. The Applicant shall dedicate in fee simple to the Board of Supervisors an approximate 12,826 square foot area on the southern portion of the Property for public use as a Dominion Virginia Power substation, as identified on Sheets C-08 and C-09 of the CDP and as shown in greater detail on attached Exhibit A (the “Substation Property”). It is understood that the substation will be constructed in two phases (Phase 1 and Phase 2) as depicted on Exhibit A.

B. Dedication of the Substation Property shall occur upon the written request of Fairfax County, or earlier at the Applicant’s election, provided:

(i) the Property has obtained approval, beyond any applicable appeal period, of this Rezoning;

(ii) the Substation Property has been approved as a single subdivided parcel by Fairfax County and the Deed of Subdivision is fully approved by Fairfax County, executed by all necessary parties, and is released by Fairfax County for recordation;

(iii) the Deed of Dedication (conveying the Substation Property to the County) includes:

a. a covenant that the Phase 2 area shall remain open for fire access purposes and parking access/circulation until such time as the existing hotel is demolished and interim fire access on the Phase 2 area as depicted on Sheet C-26 “Fire Access Plan – Interim” is no longer needed to serve the Proposed Development as determined by the Fairfax County Fire Marshal;
b. an obligation for the County and Dominion Power to grant an emergency vehicle access easement as may be required by the County over Phase 2; and

c. a reservation for temporary construction easements as Applicant deems reasonably necessary for construction of the Proposed Development; and

(iv) Fairfax County and Dominion Virginia Power have provided the necessary easements/dedications/permission to permit the construction of Roseline Street and Boone Boulevard across Parcel 5 at no cost to the Applicant, other than typical legal and engineering fees related to easement/dedication agreement preparation.

C. Simultaneously with the dedication, the Applicant shall further grant to the Board of Supervisors and/or Dominion Virginia Power, in a form and substance acceptable to the Board of Supervisors and Dominion Virginia Power, temporary construction staging and access easement(s), a permanent sanitary sewer easement, and transmission and distribution line easements to accommodate the construction, operation and maintenance of the substation and associated transmission and distribution facilities as generally shown on Exhibit A, pursuant to terms to be agreed upon by the all parties.

D. Any further zoning or engineering approvals for the Substation, as well as construction of the substation shall be the responsibility of others. All necessary documents requiring authorization from the Applicant, its successors or assigns, for filing any requisite zoning, special exception, FDP, subdivision, and site plan applications to gain approval of the substation use by others shall be provided upon demand by Fairfax County.

66. Public School Contribution. Per the Residential Development Criteria Implementation Motion adopted by the Board of Supervisors on September 9, 2002, and revised July, 2006, the Applicant shall contribute $12,262 per expected student (based on a ratio of 0.112 students per multi-family residential unit) to the Fairfax County School Board to be utilized for capital improvements to schools that serve the Tysons Corner area. Such contribution shall be made on or before the issuance of the first RUP for each residential building on the Property and shall be based on the actual number of dwelling units built in each building.

If, prior to site plan approval for a respective residential building, Fairfax County should modify, on a county-wide basis, the expected ratio of students per subject multi-family unit or the amount of the contribution per student, the amount of the contribution shall be modified for that building to reflect the then current ratio and/or contribution. This contribution is not subject to the provisions of Proffer 72. If the County should decrease the ratio or contribution amount, the amount of the contribution shall be decreased to reflect the current ratio and/or contribution.
67. **Fire Department Contribution.** The Applicant shall contribute $10,000 to Fairfax County for the cost of emergency vehicle preemption devices on two traffic signals in the vicinity of the Property. The contribution shall be paid upon site plan approval for the first new residential or office building to be constructed on the Property.

**STORMWATER MANAGEMENT**

68. **Stormwater Management.**

A. Stormwater Management ("SWM") measures for the Property shall be designed to protect receiving waters downstream of Tysons Corner by reducing runoff from impervious surfaces using a progressive approach. This progressive approach shall, to the maximum extent practicable, subject to the determination of LDS, retain on-site and/or reuse the first inch of rainfall. Proposed SWM and Best Management Practice ("BMP") facilities shall follow a tiered approach as identified by the County which may include infiltration facilities (where applicable), rainwater harvesting/detention vaults, runoff reducing and other innovative BMPs.

Plans submitted subsequent to this rezoning shall identify the use of certain Low Impact Development ("LID") techniques that will aid in runoff volume reduction and promote reuse throughout the site. As a part of the LID techniques proposed, the Applicant shall provide green roofs both intensive and/or extensive, bio-retention (traditional and urban) areas, soil amendments, dry swales, pervious hardscapes/streetscapes, and infiltration.

Additionally, the SWM facilities shall be designed to accommodate not just the pre-developed (existing) peak release rates, but also strive to preserve and/or improve the pre-developed (existing) runoff volumes and reduce pollutant runoff as contemplated within the stormwater management-related credits of the project’s registered version, or the most current version, of the U.S. Green Building Council’s applicable Leadership in Environmental Education and Design (LEED®) rating system (e.g., for LEED-NC 2009, the Stormwater Design-Quantity Control and Stormwater Design-Quality Control credits [Sustainable Sites 6.1 and 6.2]). The above noted SWM Facilities shall be designed, to the maximum extent practicable, to meet the requirements of the stormwater management-related credits of the project’s registered version or the most current version of the U. S. Green Building Council’s applicable LEED rating system for each building/phase of the development based upon the LEED Boundary identified with each building/phase.

B. At the time of each FDP, the Applicant shall provide calculations for that phase showing the proposed volume reductions and shall work cooperatively with LDS and DPZ to ensure that the stormwater management measures that would be sufficient to meet the requirements of the aforementioned LEED credits will be provided and that the first inch of rainfall will be retained or reused to the maximum extent practicable. Supporting information shall be included, as part of each FDP submission, that is of sufficient detail, subject to LDSs’ determination.
in coordination with the Environment and Development Review Branch of DPZ, to demonstrate the viability of the proposed stormwater management strategy for the area subject to the FDP. This information shall include the following:

(i) For any BMP involving infiltration of water into the ground, soil testing information documenting that the soil will be able to support the proposed infiltration measure(s).

(ii) For any measure involving storage and reuse of stormwater runoff, documentation supporting assumed levels of water usage.

C. The requirements of Paragraph B may be met on an individual building basis (to include consideration of any associated parking, roadway and/or courtyard areas) or be based upon the total area of the Property. Extended detention facilities and extended release techniques may be used to augment the proposed volume reductions. It is further understood that interim or temporary SWM and BMP measures may be required during any interim phase of the Proposed Development.

Each FDP shall include the location and preliminary design of the SWM facilities including the access points to underground vaults. Access points, detailed at the time of FDP, shall be located outside of the landscape amenity panel and sidewalk zone of the streetscape.

D. With each subsequent site plan, the Applicant shall provide refined calculations illustrating conformance with the proposed volume reductions shown on the FDP. The specific SWM facilities shall be determined at the time of site plan, and as may be approved by LDS. While it is anticipated that compliance with the goal of retaining and/or reusing the first inch of rainfall and meeting the requirements of the aforementioned LEED credits will be confirmed at site plan by utilizing the proposed retention credits identified by the County as part of its stormwater spreadsheet, the Applicant reserves the right to utilize any combination of LID measures (existing and future) to meet this goal, subject to the review and approval of LDS. Similarly, if all other County suggested stormwater alternatives have been attempted, the Applicant reserves the right to over detain the runoff from a one-inch rainfall to a release rate that mimics that of a "good" forested condition.

Where it is the Applicant's intent to use a rainwater harvesting system ("RWHS") for stormwater credit, variations in reuse water demand may create fluctuations in draw down of the RWHS tank(s). If storage time will exceed 10 days, due to seasonal variation in demand, the Applicant shall have the right to discharge excess volumes off site during non-rainfall periods in a manner and at release rates as allowed by the PFM or as approved by the Director of LDS. To the extent practicable, such discharges shall mimic release rates from a good forested condition for a significant majority of rainfall events, and/or excess volume shall be directed to other facilities using a "treatment train" approach, if possible, as
approved by the Director of LDS. If for any reason the designed dedicated end use(s) becomes unavailable because of some change, the Applicant shall provide an approved alternative end use or install a properly designed BMP treatment system to achieve runoff reduction and treatment of the runoff.

69. **Tree Replacement.** As shown on the CDP, the Applicant is requesting a modification of PFM Section 12-0505.6B to allow for trees located above any proposed percolation trench or bio-retention area to count toward the 10-year tree canopy requirement. In the event that any of the said trees may need to be removed for maintenance or repair of those facilities, the Applicant shall replace removed trees as determined by the UFMD to sustain the 10-year canopy.

**MISCELLANEOUS**

70. **Metrorail Tax District Buyout for Certain Residential Uses.** At least sixty days prior to registration with the Common Interest Community Board of any residential condominium documents that would change the use of all or any portion of the Property that either i) is zoned to permit multi-family residential use but is not yet used for that purpose or ii) from use as a multi-family residential real property that is primarily leased or rented to residential tenants or other occupants by an owner who is engaged in such a business, in either case therefore taxable for purposes of the now existing Phase I Dulles Rail Transportation Improvement District (the "Phase I District") to a use that is not subject to the Phase I District tax, the Applicant shall provide a written notice to the Director of the Real Estate Division of the Fairfax County Department of Tax Administration advising that the Applicant intends to register such condominium documents for that portion of the Property. Prior to registering the condominium documents, the Applicant shall pay to Fairfax County a sum equal to the then-present value of Phase I District taxes estimated by the County to be lost as a result of that change in use.

71. **Zoning Administrator Consideration.** Notwithstanding the foregoing, upon demonstration by the Applicant that, despite diligent efforts or due to factors beyond the Applicant's control, the required transportation, publicly accessible park areas, athletic field improvements, or other proffered improvements 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, necessary easements, site plan approval, etc.) beyond the timeframes specified, the Zoning Administrator may agree to a later date for completion of these improvement(s).

72. **Condemnation Procedures.** The development of the Property in accordance with these Proffers anticipates the acquisition of property, rights-of-way and/or easements from parcels that are not part of the Property (collectively referred to as the “Off-Site Parcels”). The Applicant shall use its good faith efforts and offer a reasonable fair market value for said property, right-of-way and/or easements. In the event the Applicant is not able to acquire the property, rights-of-way and/or easements from the Off-Site Parcels necessary to fulfill the obligations described herein, the Applicant shall demonstrate its
efforts in writing and submit a written request to Fairfax County to acquire the property, rights-of-way and easements by means of its condemnation powers.

In conjunction with any such request, the Applicant shall forward to the appropriate County agency: (a) plat, plans and profiles showing the necessary property, rights-of-way and/or easements to be acquired; (b) an appraisal, prepared by a MAI (Member of the Appraisal Institute) independent appraiser approved by the County, of the value of the property, rights-of-way and/or easements to be acquired and of all damages, if any, to the residue of the Off-Site Parcel; (c) a sixty (60) year title search certificate of the Off-Site Parcel from which the property, rights-of-way and/or easement is to be acquired; and (d) cash in an amount equal to appraised value of the property, rights-of-way and easements and of all damages to the residue of the Off-Site Parcel; and (e) a copy of written offers and counteroffers and evidence of owners refusal of such offers and counteroffers. In the event the Owner of the Off-Site Parcel is awarded more than the appraised value of the Off-Site Parcel and of the damages to the residue in a condemnation suit, the Applicant shall pay the amount of the award in excess of cash amount to the County within fifteen (15) calendar days of said award. It is understood that the Applicant upon demand shall pay all other costs incurred by the County in acquiring the easements to the County.

Prior to and during any potential condemnation proceedings, the Applicant, its successors and assigns, shall be permitted, at its own risk, to submit, process and receive approval of the Site Plan and related subdivision plat(s), easement plats, development permits, building plan approvals and building permits for other portions of the Property.

73. **Adjustment in Contribution Amounts.** All monetary contributions, except as may be further specified in these Proffers, shall adjust on a yearly basis from the base month of January 2019 and change effective each January 1 thereafter, as permitted by VA. Code Ann. Section 15.2-2303.3.

74. **Advanced Density Credit.** Advanced density credit is reserved consistent with the provisions of Par. 4 of Sect. 2-308 of the Zoning Ordinance for all eligible dedications described herein or as may be required by Fairfax County or VDOT.

75. **Severability.** Pursuant to Section 18-204 of the Zoning Ordinance, any portion of the Property may be the subject of a PCA, Special Exception (“SE”), Special Permit (“SP”), or 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.

76. **Successors and Assigns.** These Proffers will bind and inure to the benefit of the Applicant and their 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 the owners from time to time of any portion of the Property during the period of their ownership. Once portions of the Property are sold or otherwise transferred, the associated proffers become the obligation of the purchaser or other
transferee and shall no longer be binding on the seller or other transferor. With respect to any portion of the Property subject to a COA, the COA shall have liability for performance of any applicable proffers, but not the individual condominium owners.

77. **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 NEXT PAGE]
APPLICANT/TITLE OWNER OF
TAX MAP 29-3 ((1)) 2G

1587 SPRINGHILL HOLDINGS, INC.

By: Pamela M. Williams
Its: President

[SIGNATURE ENDS]
List of Waivers and Modifications for
RZ 2011-HM-013 and RZ 2011-HM-027
September 14, 2017

The following waivers and modifications are applicable to both RZ 2011-HM-013 and
RZ 2011-HM-027, unless otherwise restricted.

- Waiver of Sect. 2-505 of the Zoning Ordinance (ZO) to permit structures and
vegetation on a corner lot as shown on the CDP.

- Modification of Sect. 2-506 of the ZO to allow for a parapet wall, cornice or
similar projection to exceed the established height limit by more than three feet
but not more than 12 feet to screen mechanical equipment, as may be indicated
on an FDP.

- Waiver of Sect. 6-506 of the ZO which requires a minimum district size of 10
acres.

- Modification of Par. 3E of Sect. 10-104 of the ZO, which limits fence height to
seven feet, to permit a maximum fence height of 14 feet around outdoor
recreational courts and fields shown on an FDP.

- Modification of Par. 4 of Sect. 11-202 of the ZO requiring a minimum distance of
40 feet of a loading space in proximity to drive aisles, to that shown on a FDP.

- Waiver of Par. 8 of Sect. 13-202 of the ZO to modify the interior landscaping
requirements for parking lots to that which are shown on the CDP.

- Waiver of Par. 5 of Sect. 13-203 of the ZO to modify the peripheral landscaping
requirements for the surface parking lots that will remain on an interim basis to
that which are shown on the CDP.

- Waiver of Sect. 16-403 of the ZO in order to permit a public improvement plan for
public streets, park spaces, and interim parking spaces without the need for an
FDP.

- Modification Sect. 17-201 of the ZO to permit the streetscape and on-road bike
lane system shown on the CDP in place of any trails and bike trails shown for the
subject property on the Comprehensive Plan.

- Waiver of Par. 3 of Sect. 17-201 of the ZO to provide any additional interparcel
connections to adjacent parcels beyond that shown on the CDPs and as
proffered.

- Waiver of Par. 4 of Sect. 17-201 of the ZO to not require further dedication,
construction, or widening of existing roads beyond that which is indicated on the
CDPs and proffers.
• Waiver of Par. 7 of Sect. 17-201 of the ZO to permit the applicants to establish parking control signs (including spacing and location) and parking meters along private streets within and adjacent to the development in coordination with the Fairfax County Department of Transportation.

• Modification of Sect. 12-0508 of the PFM to allow for tree preservation target deviations as justified by PFM 12-0508.3A(1) and 3A(3).

• Modification of Sect. 12-0510 of the PFM to permit trees located in rights-of-way and easements to count toward the 10-year tree canopy requirement subject to the proffered replacement provisions.

The following modifications and waivers are applicable to RZ 2011-HM-013 only

• Waiver of Par. 14 of Sect. 6-505 of the ZO to allow outdoor display and outdoor storage of vehicles associated with existing vehicle sales, rental, and ancillary service establishments.

• Waiver of Sect. 17-201 of the ZO, to not require provision of a service road along Leesburg Pike.