

INOVA CENTER FOR PERSONALIZED HEALTH

PROFFERS

PCA 74-7-047-02-02

October 4, 2019

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PROFFERS

PCA 74-7-047-02-02

October 4, 2019

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), INOVA HEALTH CARE SERVICES (“Inova”), for themselves, the property owners and their successors and assigns (hereinafter collectively referred to as the “Applicant”), hereby proffers that the development of the parcel under consideration and identified on the 2019 Fairfax County tax map as 49-4 ((1)) 57 (the “Application Property”) will be in accordance with the following conditions (the “Proffers”) upon approval of application PCA/CDPA/FDPA 74-7-047-02-02 (the “Application”) by the Board of Supervisors. In the event the Application is so approved, then all previous proffers and development conditions for the Application Property will thereby be null and void and of no further force or effect. In the event the Application is not so approved, then these Proffers will thereby be null and void and all previous proffers and development conditions for the Application Property will remain in full force and effect.

GENERAL

1. Certain Definitions and Interpretive Rules.

- A. As used in these Proffers, (i) the term “Block” refers to the respective portion of the Application Property identified as Block I, II, III, IV, V, VI, or VII as shown on the Development Plan (defined in Proffer 2), and (ii) the term “Building” refers to the respective building identified on the Development Plan. References in these Proffers to “Sheets” refer to the specified sheets of the Development Plan.
- B. With respect to obligations established by these Proffers to apply at the time of “site plan”, the term “site plan” also means “public improvement plan”. “Director” means the director, or that director’s designee, of the Fairfax County department having approval authority over the applicable subject matter. With respect to obligations established by these Proffers to apply in connection with the issuance of a residential use permit (“RUP”) or non-residential use permit (“Non-RUP”), the term “RUP” or “Non-RUP” means the RUP or Non-RUP issued for a tenant or other occupant and not that issued in connection with a building core and shell permit or other pre-occupancy permit.
- C. As used in these Proffers, the word “includes” and its derivatives are intended in all cases to mean “includes, but is not limited to” and corresponding derivative expressions. Unless the context otherwise requires, the pronouns of any gender include the other gender, the singular includes the plural, and the plural includes the singular, and the word “or” is not intended to be exclusive.

2. Conceptual Development Plan Amendment/Final Development Plan Amendment. The Application Property will be developed in substantial conformance with the “Inova Center for Personalized Health Conceptual Development Plan Amendment/Final Development Plan Amendment” dated October 18, 2018 and revised through August 22, 2019 prepared by christopher consultants, inc. and Hellmuth, Obata + Kassabaum, P.C. (the “Development Plan”), consisting of Sheets 01.1 through 10.20.
 - A. Conceptual Development Plan Amendment Portion of Development Plan. Notwithstanding that the Development Plan is presented on Sheets 01.0 – 10.20 and applies to the entirety of the Application Property, the proffered elements of the Conceptual Development Plan Amendment are limited to (i) the general location of roads, points of access to the Application Property, buildings, and open spaces, (ii) the maximum total gross floor area (“GFA”) for the Application Property, the maximum building heights, and the maximum extent of the limits of clearing and grading, (iii) the general mix of uses, and (iv) the type and general location of stormwater management facilities (collectively, the “CDPA Elements”).
 - B. Current Final Development Plan Amendment Portion of Development Plan. Notwithstanding that the Development Plan is presented on Sheets 01.0 – 10.20, the current Final Development Plan Amendment is limited to those elements of the Development Plan that relate to (i) improvements shown as existing or previously approved conditions on the Development Plan, (ii) proposed road and utility improvements and related infrastructure (both interior and exterior to the Application Property), (iii) proposed Parks 2, 3, 4, 5, and 7 (but not Parks 1 or 6) and new trails and related improvements on the eastern portion of the Application Property, (iv) stormwater infrastructure shown on the Development Plan, including modifications to the approved stormwater management pond and any underground stormwater management facilities, (v) proposed interim conditions, including Interim Streetscape (as defined in Proffer 29), that would result from the phased development of new improvements, and (vi) Final Streetscape (as defined in Proffer 28) along the east side of both Gallows Road and Innovation Park Drive and its median (collectively, the “Current FDPA Elements”). Development of any new Building or other new improvement (other than Current FDPA Elements) shown within the Blocks requires approval of a subsequent Final Development Plan Amendment (a “New FDPA”) by the Planning Commission.
 - C. Illustrative Phasing Diagrams. Sheets 05.10 through 05.17 of the Development Plan are included for informational purposes only to depict one of multiple potential scenarios for the phasing of the overall development of the Application Property pursuant to the Application and will not be construed to limit the Applicant’s ability to allocate GFA or phase development as provided in these Proffers.
3. Minor Modifications/Variations. Pursuant to Section 18-204 and Section 16-403 of the Zoning Ordinance, minor modifications to the Development Plan and these Proffers may be permitted as determined by the Zoning Administrator, and pursuant to Section 18-205 of the Zoning Ordinance, minor variations to the Development Plan and these Proffers may be approved by the Board of Supervisors. For clarity, whenever these Proffers refer to a

subsequent proffered condition amendment (“PCA”) such reference includes a minor variation by the Board of Supervisors pursuant to Section 18-205 of the Zoning Ordinance.

PROPOSED DEVELOPMENT

4. Uses. The Application Property is intended to redevelop over time with a mix of uses anchored by academic, research, and healthcare institutions organized in an urban campus setting. The Application Property may include any of the uses listed on the Development Plan and all uses accessory thereto. Additional uses not listed on the Development Plan may be approved by subsequent PCA without requiring an amendment to the Development Plan provided such uses meet the use limitations in the Zoning Ordinance and are in substantial conformance with the Development Plan. In addition, telecommunications equipment may be attached to buildings or placed on building rooftops. Any such facilities must comply with the applicable requirements of the Zoning Ordinance and be architecturally integrated, screened or setback sufficiently from the perimeter of roofs and penthouses such that they are not readily visible from public streets when viewed from the property line of the Application Property.
5. Gross Floor Area. Total development on the Application Property is limited to a maximum of 3,566,000 square feet of GFA (0.70 FAR based on current land area, prior to any right of way dedication). The maximum GFA does not include cellar area in any of the existing Buildings, but it does include cellar area as may be constructed in any of the new Buildings. Development of new Buildings requires approval of New FDPAs by the Planning Commission and is subject to the phasing requirements of Proffer 14.C. and the phasing of transportation improvements as set forth in Proffers 15 and 16.
6. Allocation of GFA by Building. The tabulations on Sheet 02.1 set forth proposed minimum and maximum GFA for each of the new Buildings. The GFA for each of the new Buildings will be further specified (within the minimum and maximum ranges shown on Sheet 02.1) at the time of New FDPA for the respective new Building. In seeking New FDPA approval for new Buildings, the Applicant may reallocate GFA among the Buildings shown on the Development Plan without requiring a Conceptual Development Plan Amendment (“CDPA”) or PCA so long as (A) the total maximum GFA for the Application Property is not exceeded; (B) the new Building subject to the New FDPA is proposed within the height and GFA ranges shown on Sheet 02.1, and (C) such reallocation remains subject to the phasing requirements of Proffer 14.C. and the phasing of transportation improvements as set forth in Proffers 15 and 16. The Applicant reserves the right to seek New FDPA approval for, and ultimately to construct, less than the maximum amount of GFA shown on the Development Plan and fewer than all the new Buildings shown on the Development Plan provided the New FDPA is submitted consistent with Proffer 10.V. Following New FDPA approval, the Applicant reserves the right to reallocate GFA among the Buildings without requiring a PCA, CDPA, or New FDPA subject to approval of a minor modification by the Zoning Administrator.

7. Allocation of GFA by Use.

- A. General. The tabulations on Sheet 02.1 set forth both maximum GFA by use over the entire Application Property and proposed GFA by use for each of the new Buildings. The maximum GFA for each use within each of the new Buildings will be specified at the time of New FDPA for the respective new Building. The Applicant reserves the right to seek New FDPA approval for, and ultimately to construct, less than the maximum amount of GFA by use as shown on the Development Plan. The Applicant may reallocate GFA among uses in the respective Buildings shown on the Development Plan without requiring a PCA, CDPA, or New FDPA so long as (i) the total maximum GFA shown on the Development Plan for any particular use on the Application Property is not exceeded, except as otherwise allowed by Proffer 7.H., and (ii) such reallocation does not materially affect (as determined by analysis submitted to Fairfax County Department of Transportation (“FCDOT”)) the distribution of vehicle trips anticipated in the Traffic Impact Study prepared by Wells + Associates dated October 12, 2018 as revised through July 15, 2019.
- B. College / University Uses. The tabulations on Sheet 02.1 set forth a maximum 310,000 square feet of GFA for College or University use, which will be allocated to support the development program of one or more university, college, or other institution of higher education. This includes approximately 50,000 square feet of GFA in existing Building D.
- C. Research Uses. The tabulations on Sheet 02.1 set forth a maximum of 1,222,000 square feet of GFA for Establishments for Scientific Research, Development, and Training, in which the primary use is the administration and conduct of investigation, examination, experimentation, or training aimed at the discovery and interpretation of facts or the practical application of the above to products or processes. For purposes of this Proffer, such uses may, but are not required to, include: (a) the operation of laboratory facilities, pilot plants, prototype production, or the assembly, integration, testing, manufacture or production of goods and products on site; or (b) prototype production limited to computer software development, demographic and market research, technical or academic consulting services, and data processing facilities.
- D. Office Uses / Limitation on Medical Offices. The tabulations on Sheet 02.1 set forth a maximum of 638,000 square feet of GFA for office uses, exclusive of the Inova Schar Cancer Institute, which consists of 438,000 square feet of GFA. Prior to issuance of the first RUP or Non-RUP for the first new Building constructed on the Application Property in excess of a total of 1,700,000 square feet of GFA, the use of space on the Application Property for typical “medical offices” will be limited to 166,000 square feet of GFA in existing Buildings, except as otherwise allowed by Proffer 7.H. For purposes of this Proffer, “medical office” means space used for the regular provision of office-based, out-patient care by physicians or other medical professionals in connection with medical practices that draw patients from the general public and which has the vehicle trip generating characteristics of

the “medical office” uses described in the Traffic Impact Study for the Applicant prepared by Wells + Associates dated October 12, 2018 as revised through July 15, 2019. For clarity, for purposes of this Proffer, “medical office” does not include offices of physicians or other medical professionals used in connection with the academic, research, office, or other clinical uses permitted on the Application Property.

- E. Medical Care Facilities Uses. The tabulations on Sheet 02.1 set forth a maximum 46,000 square feet of GFA for medical care facilities uses. This is comprised of space in existing Building A used for inpatient rehabilitation services. This does not include any assisted living facility or nursing facility uses that may be provided as part of the residential use program described in Proffer 7.F., and the amount may be increased as provided in Proffer 7.H. New medical care facilities uses will meet the additional standards for such uses as provided in Section 9-308 of the Zoning Ordinance, and, in connection therewith, the Applicant will present the details of any such new medical care facilities uses to the Health Care Advisory Board prior to site plan or new FDPA approval, as applicable.
- F. Residential Uses. The tabulations on Sheet 02.1 set forth a maximum 705,000 square feet of GFA for residential uses. Of that total, a minimum of 150,000 square feet and a maximum of 268,000 square feet of GFA will be allocated to support housing related to the academic and research program, and a minimum of 100,000 square feet and a maximum of 385,000 square feet of GFA will be allocated to age-restricted housing. For purposes of this Proffer 7.F. any age-restricted multi-family housing, independent living facility, continuing care facility, assisted living facility, or nursing facility uses constructed on the Application Property will count toward the minimum of 100,000 square feet of GFA allocated toward age-restricted housing. The balance of the residential GFA may be developed as unrestricted multi-family housing, subject to the provision of affordable/workforce housing as set forth in Proffer 46. In addition, if site plan approval for housing allocated to support the academic and research program proposes to construct fewer than 150,000 square feet of GFA, the balance may be developed as unrestricted multi-family housing, subject to the provision of affordable/workforce housing as set forth in Proffer 46. The maximum number of residential units on the Application Property will not exceed 705 units. For clarity, rooms/beds in an assisted living, nursing facility, or continuing care facility are not considered dwelling units within the 705 dwelling unit cap.
- G. Hotel and Retail Uses. The tabulations on Sheet 02.1 set forth a maximum of 120,000 square feet of GFA for hotel uses, and 87,000 square feet of GFA for retail and similar uses (e.g., business service and supply service establishments, restaurants, financial institutions / automated teller machines, personal service establishments, public uses, accessory uses / accessory services uses, health clubs, child care centers and nursery schools, carry out restaurants, quick service food stores) which are intended to relate to and serve the development program on the Application Property and at the Inova Fairfax Medical Campus. Retail or such

similar uses will be designed as an integral part of the new Building in which such uses are to be located.

H. Reallocation of GFA Among Uses.

(i) The Applicant reserves the right to reallocate a maximum of 200,000 square feet of programmed GFA among office, research, and academic uses without requiring a PCA, CDPA, or New FDPA. In addition, the Applicant reserves the right to reallocate a maximum of 54,000 square feet of programmed new office GFA to additional medical care facility GFA within existing Buildings (in addition to any assisted living facility or nursing facility GFA that may be provided as part of the residential use program described in Proffer 7.F.) without requiring a PCA, CDPA, or New FDPA. For clarity, any reallocation of programmed GFA as provided in this Proffer 7.H.(i) will occur on a one-to-one basis such that there is no net increase or decrease in the total maximum GFA approved on the Application Property. Further, any reallocation of GFA as provided in this Proffer 7.H.(i) will be reflected on the tabulations as provided in Proffer 10.A.

(ii) The Applicant reserves the right to reallocate programmed new office GFA to additional "medical office" GFA within existing Buildings (See Proffer 7.D.) at a ratio of three square feet of new office GFA for every one additional square foot of "medical office" GFA within existing Buildings up to a maximum of 150,000 square feet of new office GFA to support an additional 50,000 square feet of "medical office" GFA within existing Buildings. For clarity, any reallocation of programmed new office GFA as provided in this Proffer 7.H.(ii) will occur on a three-to-one basis such that the provision of additional "medical office" GFA would result in a net decrease in the total maximum GFA approved on the Application Property. Further, any reallocation of GFA as provided in this Proffer 7.H.(ii) will be reflected on the tabulations as provided in Proffer 10.A.

8. Building Height. The tabulations on Sheet 02.1 set forth a range of building heights for each of the new Buildings. Such range of building heights reflects the tapering or stepping down of maximum Building heights on the Gallows Road frontage of Blocks III and V (across Gallows Road from the Amberleigh community). Maximum building heights will be specified at the time of New FDPAs and will be within the minimum and maximum range of building heights set forth on the Development Plan and taper or step downward along the Gallows Road frontage of Blocks III and V. Building heights shall be determined in accordance with the definitions and exclusions set forth in the Zoning Ordinance.

9. Parking.

A. Parking will be provided in a combination of garage structures and surface lots as shown on the Development Plan. For clarity, approval of a PCA and New FDPA is required to permit additional surface parking lots (other than as shown on the Development Plan). Construction of new parking may be phased. The exact

number of spaces to be provided will be refined with approval of New FDPAs for new Buildings and determined at the time of site plan approval based on the specific uses. The Applicant reserves the right to provide parking at different rates as may be permitted by a future amendment to the Zoning Ordinance or by the general application of Article 11 of the Zoning Ordinance with respect to "P" Districts.

- B. Prior to New FDPA approval for the first new Building on each Block shown on the Development Plan to include residential uses, the Applicant will submit a request for a parking reduction pursuant to Article 11 of the Zoning Ordinance for the respective uses in the respective Block.
- C. Parking for uses that are listed on the Development Plan but which are not included in the parking tabulations shown on the Development Plan will be provided in general accordance with the minimum parking requirements for such uses as provided in Article 11 of the Zoning Ordinance, subject to the provisions of Proffer 9.A. and 9.B. and located in areas shown on the Development Plan.
- D. In order to track parking supply with the phased occupancy of the Application Property, the Applicant will submit a parking tabulation with any New FDPA or site plan (or amendment to site plan) that results in an adjustment to the parking supply, the addition of GFA, or the change in use of any Building.
- E. On-street parking may be provided on the internal private streets to meet the parking requirements of the Zoning Ordinance, so long as such spaces are striped and meet the dimension requirements of the Public Facilities Manual ("PFM") (subject to approval of any necessary waivers or modifications). Notwithstanding the foregoing, the Applicant agrees that on-street parking shown on the Development Plan to be provided on an interim basis prior to development within the Blocks must be reappraised in connection with the future New FDPA for the new Building adjacent to such parking based on an evaluation, at that time, of proposed Final Streetscape conditions and traffic operations. Parking on private streets may be restricted through appropriate signage or such other means as determined appropriate by the Applicant as to its respective Building, and on-street parking spaces along private streets that otherwise are not required to satisfy the parking requirements may be used as temporary or short term parking, car-sharing parking or similar uses. The Applicant reserves the right to install parking meters on private streets. Again, for clarity, approval of a PCA and New FDPA is required to permit additional surface parking lots (other than as shown on the Development Plan).

10. Content of New FDPAs. New FDPAs for the Application Property will be in substantial conformance with the CDPA Elements and these Proffers. New FDPAs approved for new Buildings on the Application Property will establish the limits of clearing for new Buildings and related development as well as the GFA for each new Building within the minimum and maximum ranges established by these Proffers. The specific GFA for each new Building may be further refined at the time of site plan within the ranges established by these Proffers. If the GFA approved with a New FDPA is less than the maximum shown

on this Development Plan, or if the GFA approved with the site plan is less than the maximum shown on the New FDPA, the excess GFA may be allocated to another Building within the ranges established by these Proffers. In addition to meeting all the requirements of the Zoning Ordinance applicable to a particular New FDPA, the following information will be provided with each New FDPA for a new Building:

- A. Tabulations. A tabulation indicating the development status of the entirety of the Application Property will be provided with each New FDPA and each site plan submitted for the Application Property. The tabulation will include a listing of all existing and proposed Buildings, along with the GFA and uses approved on the Development Plan, the New FDPA, and site plan as may be applicable. The tabulation will identify the reassignment of any excess GFA (as compared with what was originally shown on the Development Plan) as applicable and will be updated with each New FDPA and site plan approved for the Application Property. The tabulation will also identify any adjustments to the land area of the Application Property based on right of way dedications, and the tabulation will track the status of constructed transportation improvements as set forth in Proffers 15 and 16. Correction of inadvertent or mathematical errors in the tabulations represented on the Development Plan, New FDPAs and site plans will be permitted within the discretion of the Zoning Administrator without the necessity of a PCA, CDPA, or subsequent New FDPA.
- B. Vehicular Access Points / Supplemental Traffic Analyses. Vehicular access points to new Buildings from the internal grid of streets will be depicted on New FDPAs for the respective new Buildings. The location of such access points will be determined at the time of New FDPAs in coordination with FCDOT in consideration of, among other factors, (i) building and site layout and design, (ii) proximity to road intersections, (iii) adjacency and alignment with other existing or proposed vehicular access points to Buildings. As a general principal, vehicular access points will be minimized and provided in relation to the expected trip generation of the proposed use of the respective Building. Also, there will be no vehicular access points to Buildings on Blocks I, III, or V located between Street B and Gallows Road. In connection with the determination of the location of such vehicular access points, the Applicant will provide supplemental operational traffic analyses if requested by FCDOT in order to address internal street intersections and the driveways serving the particular new Building. In addition, such supplemental analyses will address the need, if any, for traffic calming measures to be installed in connection with construction of the respective new Building.
- C. Tree Canopy Calculations. A tabulation indicating the tree canopy calculations of the Application Property will be provided with each New FDPA and each site plan submitted for the Application Property and will be updated with each subsequent New FDPA and site plan approved for the Application Property.
- D. TDM Supplement. A copy of the previous TDM Annual Report (defined in Proffer 22), if available, to determine progress toward attaining TDM goals and any planned modifications to the TDM Program (as defined in Proffer 22).

- E. Functional Drawings/Sight Distances. With respect to the new Building proposed by the New FDPA, functional drawings to include proposed right-of-way lines associated with public streets; vehicular sight distance lines at all intersections with public streets within, and adjacent to, the New FDPA area overlaid on the landscape plan (as described in Proffer 26), and details with respect to utilities or vegetation conflicts with building entrances or intersections as presented on the Development Plan.
- F. Utilities. With respect to the new Building proposed by the New FDPA, approximate location (which may be within private streets and sidewalks) of existing and proposed utilities to serve the area of the New FDPA 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 New FDPA may be made with the final site plan approval provided such modifications do not conflict with street trees or impact required right of way dedication unless otherwise mitigated by the Applicant.
- G. Proposed Uses. With respect to the new Building proposed by the New FDPA, a list of proposed uses and demonstration of how such uses are being provided in substantial conformance with the Development Plan and these Proffers.
- H. Architectural Elements. Architectural design elevations will be presented for the Building proposed to be constructed with each New FDPA for the purpose of illustrating the building massing, scale, façade, articulation, general building envelope and fenestration treatment, and material quality of the proposed development. Architectural Elements will be generally consistent with the concepts expressed in the Urban Design Guidelines (Volume I) for the Merrifield Suburban Center including, as applicable, recommendations for bird friendly design. See also Proffer 34.
- I. Building Heights. A tabulation of building heights. The height and extent of any rooftop penthouse will be provided on the New FDPA for each new Building.
- J. Streetscape. A graphic depiction of, and any adjustments to, Interim Streetscape and Final Streetscape elements of the New FDPA area, including the location of possible LID facilities, on-street parking, outdoor dining areas, and identification of awnings and canopies. To the extent not inconsistent with the Development Plan, Streetscape will be generally consistent with the concepts expressed in the Urban Design Guidelines (Volume I) for the Merrifield Suburban Center. See also Proffers 27, 28 and 29.
- K. Garage Treatments. With respect to the new Building proposed by the New FDPA, proposed parking garage facade treatments. See also Proffer 35.

- L. Loading / Trash/Service Area Treatment. Proposed loading/trash/service area treatments for the new Building proposed by the New FDPA.
- M. Landscaping. Detailed landscape plans for the area of the New FDPA.
- N. Interim Conditions. Identification of specific proposed interim conditions within the New FDPA area and on contiguous Blocks, including the treatment of any portions of existing structures to remain, treatment of exposed garage walls, and the provision of Interim Streetscape on contiguous Blocks.
- O. Phasing. Identification of specific proposed phased improvements to be provided in connection with the new Building proposed by the New FDPA in accordance with those generally set forth on Sheets 05.10 – 05.16.
- P. Parking Spaces. Refinement of the number of parking spaces as provided in Proffer 9.
- Q. Provisions for Bicycles and Buses. With respect to the new Building proposed by the New FDPA, bicycle parking or storage and location and general design of bus shelters, if any.
- R. Parks and Recreation. With respect to the new Building proposed by the New FDPA, specific park details, site amenities and any substitute recreation facilities proposed.
- S. Residential Amenities. Specific facilities and amenities to be provided for each new residential Building proposed by the New FDPA.
- T. Stormwater Management. With respect to the new Building proposed by the New FDPA, identification of specific stormwater management facilities and a tabulation showing the impact of the New FDPA implementation on the retention or reuse of the first inch of rainfall on the Application Property, or such higher standard as may be in effect at such time. See also Proffer 24.
- U. Workforce Dwelling Units. For applicable residential development, the expected phasing for the construction of the required workforce dwelling units. See also Proffer 46.
- V. Form of Surrounding Development. In order to depict the form of proposed development, each initial New FDPA for the first Building in each Block will include (a) the land area of that entire Block, (b) a description of the anticipated phasing of development within that Block, and (c) a depiction of interim conditions that will be provided during the course of development within that Block and surrounding blocks (See Proffer 10.N.). This does not require the Applicant to request New FDPA approval for each Building within a Block at once, but, rather, to address in such applications how portions of the Block for which new Buildings are not then proposed will be treated during build out within the Block. Examples of such interim conditions to be shown may include temporary park spaces, Interim

Streetscape, and interim or permanent treatments for exposed garage walls, each consistent with the requirements of these Proffers. In addition, each New FDPA will demonstrate (i) how the new Building and any other development proposed thereby will be integrated into then-existing and anticipated future remaining development on the Application Property, and (ii) how the new development will contribute to the Applicant's overall vision for the Application Property.

- W. Retail Marketing Plan. In connection with new Buildings that include ground floor retail (or similar) uses (See Proffer 7.G.), the Applicant will submit with the New FDPA for the respective Building a retail marketing plan to be implemented, if not sooner, following approval of a respective New FDPA.
 - X. Green Building Design. A list of interior building elements that the Applicant intends to provide in furtherance of green- or well- building design. See also Proffer 36.
11. Fire Marshal Evaluation. Changes from the Development Plan (and, later, New FDPAs) will be permitted in response to the review of New FDPAs (and, later, site plans) by the Fire Marshal, including adjustments to tree locations, the streetscape and perimeter building areas as necessary to allow for required emergency vehicle access, without requiring approval of a PCA, CDPA or New FDPA, provided such modifications are made in consultation with the Department of Planning and Development ("DPD"), FCDOT, Land Development Services ("LDS"), and Urban Forest Management Division ("UFMD") and in substantial conformance with the intent of the Development Plan and these Proffers.
 12. VDOT Evaluation. Changes from the Development Plan (and, later, New FDPAs) will be permitted in response to the review of New FDPAs (and, later, site plans) by VDOT, including adjustments to tree locations, traffic controls, lane use/pavement markings, signage, the streetscape and perimeter building areas as necessary to allow for required emergency vehicle access, without requiring approval of a PCA, CDPA or New FDPA, provided such modifications are made in consultation with DPD, FCDOT, UFMD, and LDS and are in substantial conformance with the Development Plan and these Proffers.
 13. Final Clearing Limits. Modifications to clearing limits shown on the Development Plan and New FDPAs will be permitted in response to final design or to allow for the installation of fences, signs, utilities, trails and other such improvements without requiring approval of a PCA, CDPA, or New FDPA provided such modifications are determined to be minor modifications by the Zoning Administrator. Again, for clarity, approval of a PCA and New FDPA is required to permit additional surface parking lots (other than as shown on the Development Plan).
 14. Phasing of Development.
 - A. General. The Applicant reserves the right to develop the Application Property in phases, in any order, and the Applicant is not obligated to construct any or all of the improvements shown on the Development Plan, except as specified in these Proffers.

- B. Existing Improvements. The Applicant reserves the right to occupy existing Buildings with any use permitted under these Proffers (subject to applicable use limitations set forth in the Zoning Ordinance) and to make minor modifications to existing Buildings or other improvements as may be approved by the Zoning Administrator without requiring a PCA, CDPA, or New FDPA.
- C. New Improvements. In order to promote a compact, well-connected, and more urban form of development within the Application Property, the Applicant will commence construction on the final phase of new development within Blocks III, IV, and V (as shown on New FDPAs approved for such Blocks) prior to commencing construction on the first phase of new development on Blocks VI or VII (as shown on New FDPAs approved for such Blocks). Any adjustment to this sequencing of development will require approval of a PCA based on changed circumstances and a demonstration by the Applicant how the adjusted sequencing of development will meet the objective to promote a compact, well-connected, and more urban form of development within the Application Property. Otherwise, the Applicant reserves the right to request New FDPA approval for new Buildings and other improvements, and ultimately (subject to New FDPA approval) to construct new Buildings and other improvements on the Application Property, in one or more phases over time, in any order, subject to the phasing of transportation improvements as set forth in Proffers 15 and 16 and the other requirements of these Proffers. For clarity, the Phasing Diagrams shown on Sheets 05.10 - 05.16 illustrate how each of the Blocks could redevelop if, in each event, the respective Block were the first to redevelop, and the overall Phasing Diagram shown on Sheet 05.17 illustrates how the entire 3,566,000 square feet of GFA could be developed. The Applicant makes no attempt to describe the sequence of phases. In the event the Applicant proceeds with development of a new Building that is not shown on the illustrative Sheet 05.17, the Applicant will submit an update to Sheet 05.17 depicting such new Building at the time the Applicant submits a New FDPA for such Building. The Current FDPA Elements may be constructed in phases independently prior to or concurrent with redevelopment of the adjoining Blocks. For clarity, limits of clearing shown on the Development Plan will be maintained until adjusted to provide for new development as approved in connection with New FDPAs.

TRANSPORTATION IMPROVEMENTS

15. Internal Grid of Streets. The Applicant will construct and maintain a grid of streets on the Application Property generally consistent with the phasing of development shown on Sheets 05.10 - 05.16, together with Interim Streetscape and Final Streetscape improvements as provided in Proffers 27 and 28. More specifically, the Applicant will construct internal street segments on the respective Blocks as follows:
- A. Block I. If not previously constructed in connection with construction on another Block, the Applicant will construct the following internal street segments prior to issuance of the first RUP or Non-RUP for the first new Building to be constructed on Block I (except as otherwise noted):

- (i) Street B from Peterson Discovery Drive to Innovation Park Drive; and
 - (ii) Street A from Gallows Road to Street B (limited to Building 3).

- B. Block II. If not previously constructed in connection with construction on another Block, the Applicant will construct the following internal street segments prior to issuance of the first RUP or Non-RUP for the first new Building to be constructed on Block II (except as otherwise noted):
 - (i) Street B from Peterson Discovery Drive to Innovation Park Drive;
 - (ii) Street A from Street B to Park 2; and
 - (iii) Innovation Park Drive Modifications at Park 2 (limited to first of Buildings 5 or 6).

- C. Block III. If not previously constructed in connection with construction on another Block, the Applicant will construct the following internal street segments prior to issuance of the first RUP or Non-RUP for the first new Building to be constructed on Block III (except as otherwise noted):
 - (i) Street B from Peterson Discovery Drive to Innovation Park Drive;
 - (ii) Street A from Gallows Road to Street B (limited to Building 7); and
 - (iii) Widening of Peterson Discovery Drive between Gallows Road and Street B (limited to Building 8).

- D. Block IV. If not previously constructed in connection with construction on another Block, the Applicant will construct the following internal street segments prior to issuance of the first RUP or Non-RUP for the first new Building to be constructed on Block IV (except as otherwise noted):
 - (i) Street B from Peterson Discovery Drive to Street A (limited to the first of Buildings 9 or 10);
 - (ii) Widening of Peterson Discovery Drive (limited to first of Buildings 10 or 11);
 - (iii) Street A from Street B to Park 2; and
 - (iv) Innovation Park Drive Modifications at Park 2 (limited to first of Buildings 9 or 11).

- E. Block V. If not previously constructed in connection with construction on another Block, the Applicant will construct the following internal street segments prior to issuance of the first RUP or Non-RUP for the first new Building to be constructed on Block V (except as otherwise noted):
 - (i) Widening of Peterson Discovery Drive (limited Building 12); and
 - (ii) Street C (limited to Building 13).

- F. Block VI. If not previously constructed in connection with construction on another Block, the Applicant will construct the following internal street segments prior to issuance of the first RUP or Non-RUP for the first new Building to be constructed on Block VI (except as otherwise noted):

- (i) Street C (limited to the first of Buildings 14 or 15); and
- (ii) Street D (limited to Building 16).

G. Block VII. If not previously constructed in connection with construction on another Block, the Applicant will construct the following internal street segments prior to issuance of the first RUP or Non-RUP for the first new Building to be constructed on Block VII (except as otherwise noted):

- (i) Street D (limited to Building 17).

These will be private streets that are privately maintained. Public access easements in a form acceptable to the County Attorney will be granted for the vehicle travelways and streetscape zones (including bike lanes, trails, and sidewalks) for these streets at the time of site plan approval. The Applicant reserves the right to advance construction of any of the internal grid of streets except that Street D will not be connected to Gallows Road prior to approval of the first a New FDPA for Block VI or VII.

16. Road Improvements.

A. Gallows Road Improvement Package.

- (i) Road Improvements. The Applicant will construct improvements to Gallows Road, Woodburn Road, and the southbound I-495 Off-Ramp to northbound Gallows Road as shown on Sheets 04.9 – 04.13, 04.15, and 04.16 (collectively, the “Gallows Road Improvement Package”) pursuant to public improvement plans approved by FCDOT, VDOT, and as applicable FHWA.
- (ii) Traffic Signals. In connection with construction of the Gallows Road Improvement Package the Applicant will implement traffic signal modifications at the intersections of Gallows Road/Innovation Park Drive/IFMC Grey Entrance; Gallows Road/I-495 southbound off-ramp/Woodburn Road; Woodburn Road/Holly Road; Gallows Road/Eastbound Arlington Boulevard; Gallows Road/Street A; Gallows Road/Peterson Discovery Drive; and Gallows Road/Street D, including in each case optimizing signal timing, pedestrian enhancements, and emergency vehicle preemption controls as may be requested by FCDOT or VDOT.
- (iii) Minor modifications to the Gallows Road Improvement Package may be made at the time of New FDPA or site plan subject to approval by FCDOT and VDOT and without requiring a PCA, CDPA, or New FDPA. Further, notwithstanding the improvements shown on the Development Plan, the Applicant will not be required to modify southbound Gallows Road between Route 50 and Woodburn Road in the event VDOT does not approve waivers of the requirement for exclusive right turn lanes on the west side of Gallows Road. The Applicant will diligently pursue approval of such waivers.

- (iv) As necessary, the Applicant will dedicate land for the Gallows Road Improvement Package, as it may be so modified, at the time of the respective site plan approvals for the same to a point 6 feet behind the future face of curb adjacent to northbound Gallows Road. The Applicant will grant easements for traffic signal equipment, intersection sight distance, and roadside signing at the time of the respective site plan approvals for the same. New private street connections to Gallows Road will be constructed in accordance with Proffer 15.

B. Timing of Gallows Road Improvement Package.

- (i) The Applicant will submit a site plan or public improvement plan for the Gallows Road Improvement Package as described in Proffer 16.A. prior to issuance of the first RUP or Non-RUP for the first new Building constructed on the Application Property in excess of a total of 1,700,000 square feet of GFA.
- (ii) Construction of the Gallows Road Improvement Package will commence prior to issuance of the first RUP or Non-RUP for the second new Building constructed on the Application Property in excess of a total of 1,700,000 square feet of GFA.
- (iii) Construction of the Gallows Road Improvement Package will be completed prior to issuance of the first RUP or Non-RUP for the third new Building constructed on the Application Property in excess of a total of 1,700,000 square feet of GFA.
- (iv) The Applicant may at its option accelerate the construction of all or any portion of the Gallows Road Improvement Package.

C. I-495 Bridge Improvement Package.

- (i) Non-RUPs or RUPs will not be issued for development on the Application Property exceeding a total of 3,250,000 square feet of GFA (as shown on the tabulations to be provided with New FDPAs as set forth in Proffer 10.A.) prior to the construction of a package of off-site improvements to the Gallows Road Bridge over I-495 shown illustratively on Sheets 04.14 and 04.14A, consisting of the following conceptual elements (collectively, the “I-495 Bridge Improvement Package”):
 - (a) three northbound through lanes and two southbound through lanes on Gallows Road over I-495 as well as a southbound Gallows Road left turn lane onto the I-495 Express Lanes and dual southbound Gallows Road left turn lanes onto northbound I-495 general purpose lanes;
 - (b) replacement of the southbound Gallows Road pedestrian facility currently located on the bridge;
 - (c) a third left turn lane and a new right turn lane on the northbound I-495 off-ramp to Gallows Road;

- (d) widening the existing northbound I-495 on-ramp from Gallows Road to receive the dual southbound left turn lanes from Gallows Road onto the northbound I-495 general purpose lanes, and transition to a single lane ramp before merging with the slip lane from northbound I-495; and
- (e) adjusting Luttrell Road as needed within existing right of way to accommodate the changes to Gallows Road over I-495.

Minor modifications to the I-495 Bridge Improvement Package may be made at the time of New FDPA or site plan subject to approval by FCDOT, VDOT, and FWHA and without requiring a PCA, CDPA, or New FDPA.

17. Definition of "Construct". The term "construct" (or its derivatives) as used with respect to the road improvements referenced in these Proffers means that such road improvement is open for use by the traveling public whether or not such improvement has been accepted by VDOT for maintenance.
18. Timing of Completion. Upon demonstration by the Applicant that, despite diligent efforts or due to factors beyond the Applicant's control, any proffered transportation improvements have been delayed (due to, for example, an inability to secure necessary permission for utility relocations, VDOT, FHWA, or others' 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 such improvement.
19. Reservation of Right of Way for Beltway Widening. The Development Plan shows an area on the eastern portion of the Application Property adjacent to I-495 to be reserved for use in connection with future improvements to I-495 (Outer Loop). The Applicant agrees to dedicate such land (subject to then existing easements and other improvements) in connection with the widening project.
20. Congestion Management Plan. The Applicant will prepare and implement a construction congestion management plan during construction of each new Building, as appropriate, through its development/construction manager and the TPM (as defined in Proffer 22), so as to provide safe and efficient pedestrian and vehicle circulation at all times on the Application Property and on the public roadways adjoining the Application Property (each a "Congestion Management Plan"). Each Congestion Management Plan will identify anticipated construction entrances, construction staging areas, construction vehicle routes and procedures for coordinating construction material deliveries, lane closures, or other construction related activities to minimize disturbance on the surrounding road network. In addition, the TPM will coordinate any adjustments to the TDM Program (as defined in Proffer 22) as necessary to address each Congestion Management Plan.
21. Bus Facilities. In conjunction with the phased construction of the Road Improvements listed in Proffer 16, the Applicant will construct three bus shelters along the east side of Gallows Road in locations as generally shown on Sheets 04.11 – 04.13 in coordination with FCDOT and in conformance with applicable County standards.

TRANSPORTATION DEMAND MANAGEMENT

22. Transportation Demand Management. This Proffer 22 sets forth the programmatic elements of a transportation demand management program (the “TDM Program”) that will be implemented by the Applicant to encourage the use of transit (Metrorail and bus), other high-occupant vehicle commuting modes, walking, biking and teleworking, all in order to reduce automobile trips generated by the residential and commercial uses constructed on the Application Property.
- A. Definitions. For purposes of this Proffer 22, “Stabilization” will be deemed to occur one (1) year following issuance of the first initial RUP or Non-RUP for the final new building to be constructed on the Application Property. “Pre-stabilization” will be deemed to occur any time prior to Stabilization.
- B. Transportation Demand Management Plan. The Applicant shall be responsible for submitting a Transportation Demand Management Work Plan (the “TDM Work Plan”) to FCDOT for approval prior to site plan approval for the first new Building. The TDM Work Plan will incorporate all Buildings on the Application Property. The proffered elements of the TDM Program as set forth in this Proffer will be more fully described in the TDM Work Plan. It is the intent of this Proffer that the TDM Work Plan will adapt over time to respond to the changing transportation related circumstances of the Application Property, the surrounding community and the region, as well as to technological or other improvements, all with the objective of meeting the trip reduction goals as set forth in this Proffer. Accordingly, modifications, revisions, and supplements to the TDM Work Plan as coordinated with FCDOT may be made without the need for a PCA provided that the TDM Work Plan continues to reflect the proffered elements of the TDM Program as set forth below.
- C. Transportation Management Association. See Proffer 23.B.
- D. Trip Reduction Goals. The objective of the TDM Program is to reduce the number of weekday peak hour vehicle trips generated by the residential and commercial uses located within the Application Property through the use of mass transit, ridesharing and other strategies including but not limited to those outlined in the TDM Work Plan. In addition, the implementation of enhanced pedestrian and bicycle connections/facilities will facilitate safe and convenient access to nearby Metrorail and bus facilities thereby encouraging commuting options other than the automobile to residents, employees and visitors to the Application Property.
- (i) Baseline. The baseline number of weekday peak hour residential and commercial vehicle trips for the proposed uses within the Application Property against which the TDM Goals (as set forth in subparagraph D.ii.) will be derived based upon the number of residential units and the gross square feet of commercial uses that are site plan approved, constructed and occupied on the Application Property as part of the proposed development at the time traffic counts are conducted in accordance with subparagraph F or as qualified below

and using the trip generation rates/equations applicable to such residential uses as set forth in the Traffic Impact Study for the Applicant prepared by Wells + Associates dated October 12, 2018 as revised through July 15, 2019.

- (ii) TDM Goal. The TDM strategies will be utilized to reduce the peak hour vehicular trips by a minimum of twenty-five percent (25%) for the residential uses and by a minimum of thirty percent (30%) for the commercial uses.

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 will appoint and continuously employ, or cause to be employed, a TDM Program Manager (TPM) for the Application Property. If not previously appointed, the TPM shall be appointed by no later than sixty (60) days after the issuance of the first building permit for the first new Building to be constructed on the Application Property. The TPM duties may be part of other duties associated with the appointee. The TPM shall notify FCDOT 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.

- (ii) Annual Report and Budget. Every calendar year after the issuance of the first RUP or Non-RUP for the first new Building, and no later than (March 1), the TPM shall submit a report (the "Annual Report"), based on a report template provided by FCDOT, which may revise the annual budget (the "Budget") in order to incorporate any new construction on the Application Property. Any changes to the TDM Work Plan will be highlighted in the Annual Report. In no event will the Applicant be required to fund an annual Budget greater than \$100,000.

- (iii) The Annual Report and Budget will be reviewed by FCDOT. If FCDOT has not responded with any comments within sixty (60) days after submission, then the Annual Report and Budget will be deemed approved and the program elements will be implemented. If FCDOT responds with comments on the Annual Report and Budget, 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 or budget as discussed and agreed to with FCDOT and begin implementation of the approved program and fund the approved Budget.

- (iv) TDM Account. In the event the Applicant transfers responsibility for this Proffer 22 to a property owners' association, then the TPM shall establish a separate interest bearing account with a bank or other financial institution qualified to do business in Virginia (the "TDM Account") within 30 days after

such transfer. All interest earned on the principal shall remain in the TDM Account and shall be used by the TPM for TDM purposes.

- (v) TDM Incentives. The Applicant, through the TPM, will fund a multimodal incentive program for initial residents and employees within the Application Property. Contributions to such effort will be made one time on a building by building basis at the rate of \$0.01 per gross square foot of new office or residential uses to be constructed on the Application Property and provided prior to the issuance of the first RUP or Non-RUP for each such new individual Building. In addition to providing transit incentives, such funds may also be used for enhancing/providing multimodal facilities within and proximate to the Application Property.
 - (vi) Monitoring. The TPM will verify that the proffered trip reduction goals are being met through the completion of Person Surveys, Vehicular Traffic Counts of residential and office uses 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 Subject Property beginning one year following issuance of the final initial RUP or Non-RUP for the first new Building to be constructed on the Application Property. Person Surveys will be conducted every three (3) years and Vehicular Traffic Counts shall be collected biennially until the results of three consecutive annual traffic counts conducted upon Stabilization show that the applicable trip reduction goals for the Application Property have been met. If at any time during such period, Person Survey response rates do not reach 20%, FCDOT may request additional surveys be conducted the following year. At such time and notwithstanding Paragraph F. 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 if conditions warrant doing so.
- F. 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 Work 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 Work Plan to address the surplus of trips.
- G. Continuing Implementation. The TPM shall bear sole responsibility for continuing implementation of the TDM Program and compliance with this Proffer. The TPM shall continue to administer the TDM Program in the ordinary course in accordance with this Proffer including submission of Annual Reports.

- H. Notice to Owners. All owners of the Application Property shall be advised of the TDM Program set forth in this Proffer. The then current owner shall advise all successor owners 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.
- I. Enforcement. If the TPM fails to timely submit the Annual Report to FCDOT as required by this Proffer, the County may thereafter issue the TPM a notice stating that the TPM has violated the terms of this Proffer 22 and providing the TPM sixty (60) days after receipt of said notice within which to cure such violation. If after such sixty (60) day period the TPM has not submitted the delinquent Annual Report, then, the Applicant shall be subject to a penalty of \$50 per day (not to exceed a total of \$3,000 in any one year) payable to Fairfax County to be used for transit or transportation related improvements in the vicinity of the Property until such time as the report is submitted to FCDOT.

23. Shuttle/Connector Service.

- A. IFMC Shuttle. The Applicant owns and operates the Inova Fairfax Medical Campus (“IFMC”) (also known as Inova Fairfax Hospital) across Gallows Road from the Application Property. The Applicant will cooperate with IFMC to integrate the Application Property into IFMC’s shuttle service to and from the Dunn Loring-Merrifield Metrorail Station.
- B. Area Wide Coordination. Either in conjunction with, or separately and in addition to the IFMC shuttle service described in Proffer 23.A., the Applicant will lead an effort to coordinate the provision of shuttle/connector service that connects the Application Property and other major destinations in Merrifield (e.g., IFMC, the Town Center, the Dunn Loring-Merrifield Metrorail Station, Fairview Park). Such service could be provided privately, including through the formation of a Transportation Management Association or partnerships with other stakeholders in Merrifield, or it could be provided through support of expanded public services. The Applicant will develop a plan for such effort to be submitted prior to issuance of the first RUP or Non-RUP for the first new Building constructed on the Application Property in excess of a total of 1,700,000 square feet of GFA. Such plan will include target service locations, headways, and providers, as well as potential funding sources and a schedule for implementation. Any funds previously contributed by other land owners in the Merrifield Suburban Center will be identified by FCDOT for inclusion in the plan. The Applicant will contribute its fair share to the coordination effort, determined in coordination with FCDOT in relation to the scale of operations underway on the Application Property from time to time. Success of the coordinated effort will require the cooperation of multiple third parties outside of the Applicant’s control. This Proffer does not require the Applicant to compel participation by unrelated parties or to contribute more than its fair share (as determined above) to the effort.

SITE IMPROVEMENTS

24. Stormwater Management.

A. Existing and Interim Conditions. The Applicant will meet or exceed PFM requirements for stormwater management for all existing and interim development on the Application Property. For clarity, requirements for new Buildings set forth in Proffer 24.B. do not apply to existing and interim conditions on the Application Property.

B. New Buildings. The Applicant will provide the following with regard to stormwater management for new Buildings on the Application Property:

(i) Stormwater Management Measures. Stormwater Management (“SWM”) measures for new Buildings on the Application Property will be designed to protect downstream receiving waters by reducing and detaining runoff from impervious surfaces using a progressive approach. This progressive approach will, to the maximum extent practicable as determined by the Applicant in consultation with LDS, retain on-site or reuse the first one inch of rainfall (or such higher standard as may then be applicable as provided in Proffer 24.C.). Proposed SWM and Best Management Practice (“BMP”) facilities will follow a tiered approach as identified by LDS, which may include infiltration facilities (where applicable), rainwater harvesting/detention vaults, runoff reducing facilities and other innovative BMPs.

New FDPAs submitted for new Buildings will identify the use of certain Low Impact Development (“LID”) techniques that will aid in runoff volume reduction and promote reuse of stormwater on the Application Property. As a part of the LID techniques proposed, the Applicant will provide runoff reducing recognized LID techniques, including green roofs (intensive or extensive), bio-retention areas (traditional and urban), soil amendments, dry swales, pervious hardscapes/streetscapes, or infiltration practices.

(ii) At the time of each New FDPA for a new Building, the Applicant will provide calculations for the area of new final development showing the proposed volume reductions and will work cooperatively with LDS and DPD to ensure that the first inch of rainfall for such area of new development will be retained or reused to the maximum extent practicable. Supporting information will be included, as part of each such New FDPA submission, that is of sufficient detail, subject to LDS determination in coordination with the Environment and Development Review Branch (“EDRB”) of DPD, to demonstrate the viability of the proposed stormwater management strategy for such area. This information will include the following:

(a) 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 will be provided at the time of site plan review.

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

- (iii) The requirements of this Proffer 24.B. may be met on an individual Building or Block basis (to include consideration of any associated parking, roadway or courtyard areas) or may be based upon the total area of the Application Property with LID measures implemented in phases, such that one particular phase may not attain the full objective independently provided the full objective is sought on an overall basis.

In addition to the proposed volume reducing LIDs, extended detention facilities and extended release techniques will be used as shown on the Development Plan.

Each New FDPA for a new Building will include the location and preliminary design of the SWM facilities including the access points to underground vaults.

- (iv) With each site plan for new Buildings, the Applicant will provide refined calculations illustrating conformance with the proposed volume reductions shown on the applicable New FDPA. The specific SWM facilities will be determined at the time of such site plan, as may be approved by LDS. While it is anticipated that compliance with the goal of retaining or reusing the first one inch of rainfall will be confirmed at site plan by utilizing the proposed retention credits identified by Fairfax County as part of their stormwater spreadsheet, the Applicant reserves the right to utilize any combination of LID (existing and future) measures 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 in lieu of the retention requirements of this Proffer 24.B.

- (v) It is understood that seasonal variations in reuse water demand will create fluctuations in the draw down period, and as such, the stormwater system will be designed to the extent practicable to not exceed 10 days of storage. If storage time exceeds 10 days, the Applicant will have the right to discharge excess volumes off site at release rates allowable by the PFM or as approved by the Director that, to the extent practicable, will mimic release rates from a good forested condition for a significant majority of rainfall events or excess volume should be directed to other facilities using a "treatment train" approach, if possible, as approved by the Director. If for any reason the designed dedicated end use becomes unavailable because of some change, the Applicant will provide an approved alternative end use or install a properly designed BMP treatment system to achieve runoff reduction and treatment of the runoff.

(vi) The Development Plan depicts a previously approved Level 1 Wet Pond in the northeast portion of the Application Property to provide stormwater management and best management practices for portions of the Application Property (the "SWM Pond"). The Applicant will construct the SWM Pond in connection with new Buildings constructed in the northern watershed on the Application Property.

- C. Revised Regulations. In the event stormwater regulations applicable to the Application Property are revised subsequent to this Application, new Buildings for which site plan approval has not previously been obtained shall be subject to the requirements of this Proffer or such revised regulations, whichever is more stringent.
25. Conceptual Landscape Plan. The Development Plan includes, as Current FDPA Elements, landscape plans for Parks 2, 3, 4, 5, and 7, consisting of an overall plan and details regarding streetscapes, plazas, and publicly accessible park areas (Sheets L-08.4 – L-08.8). More detailed landscape plans for areas within the Blocks (including Parks 1 and 6) will be provided with New FDPAs for the new Buildings. Adjustments at the time of site plan may be 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 Development Plan. Such plan will include the location of all known utilities and sight distance requirements overlaid on the planting plan.
26. Detailed Landscape Plan. As part of the first and all subsequent site plan submissions for each new Building, the Applicant will submit to the 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 Development Plan with respect to Current FDPA Elements and on each respective approved New FDPA for areas within the Blocks. Detailed landscape plans will include irrigation information, if any, design details for tree wells and other similar planting areas on structures and along streets as well as tree canopy calculations. These details will 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 will be permitted to avoid conflicts with utilities and other site engineering considerations.
27. Streetscape Generally.
- A. Streetscaping will be installed throughout the Application Property in phases and in interim and final conditions (respectively, the "Interim Streetscape" and the "Final Streetscape") as generally shown on the Development Plan. All Interim Streetscape as well as the Final Streetscape for the east side of both Gallows Road and Innovation Park Drive, and its median, are Current FDPA Elements of the Development Plan (Proffer 2.B.) and are shown on Sheets L-04.17 - L-04.24. Final Streetscape other than for the east side of both Gallows Road and Innovation Park Drive, and its median, will require subsequent final development plan amendment

approval in connection with New FDPA approval for new Buildings (Proffer 2.B.) and will be generally as shown on Sheets 05.2 - 05.4 and consistent with the sections depicted on Sheet 09.6. The interim "gateway plazas" shown on Sheets L-04.19 and L-04.21 are Current FDPA Elements of the Development Plan; the final "gateway plazas" shown on Sheets L-08.9 and L-08.10 are not Current FDPA Elements. Streetscape components may be adjusted at the time of New FDPA or site plan approval provided the quality of the streetscape is consistent with that shown on the Development Plan.

- B. Non-Invasive Plant Materials. Invasive species, as defined by the Fairfax County PFM, will not be used within either the Interim Streetscape or the Final Streetscape.
- C. New Utility Locations. New utilities, including water, sanitary sewer, storm sewer and dry utilities such as communications and electricity, will be installed within the street network to the maximum extent feasible or will be placed in locations that do not conflict with the landscaped open space areas and streetscape elements (Interim Streetscape and Final Streetscape) shown on the Development Plan (this will not preclude the installation of electrical and communications conduit and manholes and transformer vaults in the sidewalks). If there is no other option, new utilities may be placed within open space or under landscape amenity panels (Interim Streetscape or Final Streetscape) 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 well as the protection of utility infrastructure, and provided the pedestrian realm is not materially impeded as determined by the UFMD. A conceptual utility plan will be overlaid on the landscape plan submitted in the New FDPAs for new Buildings. Adjustments to the type and location of plantings will be permitted to avoid conflicts with utilities and other site engineering considerations. If at the time of site plan approval, street trees shown in connection with Interim Streetscape or on the New FDPAs for new Buildings are in conflict with existing or proposed utilities and alternative locations for such 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 DPD and without a PCA, CDPA or New FDPA provided the minimum 10% tree canopy can still be met and such trees are relocated elsewhere on the Application Property. The limitations of this Proffer 27.C. do not apply to existing utilities or improvements to the same.

Maintenance access points to SWM facilities will be located outside clear pedestrian walkway zone of the streetscape (Interim Streetscape and Final Streetscape) when feasible. If the access points must be located in the walkway zone, they will 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. Such maintenance points will be shown on each New FDPA for a new Building.

- D. Sight Distance Considerations. Sight distance requirements, if any, at intersections with VDOT maintained roads will be shown on the landscape plan submitted with

each New FDPA for a new Building, 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 applicable sight distance requirements, the Applicant will 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 will be permitted to relocate the affected street tree within the built environment, subject to approval by the UFMD.

- E. Fire Marshal. If determined at New FDPA or site plan approval that street tree locations conflict with Fire Marshal access comments, the Applicant will make efforts to gain approval of said trees by making minor adjustments to their locations or by removing their lower branches. However, in the event the Fire Marshal does not approve such tree locations, the Applicant will be permitted to relocate or delete those tree locations in consultation with UFMD.
- F. Signage and Wayfinding. Signage for the Application Property will be provided in accordance with the requirements of Article 12 of the Zoning Ordinance or the approved Comprehensive Sign Plan (“CSP”) for the Application Property, as the same may be amended. The placement of traffic control signage on public streets will be coordinated with VDOT. Among other signs, the Applicant will provide (i) signs designating the location of the various publicly accessible park spaces as set forth in Proffer 43, and (ii) signs designating off-site destinations to encourage efficient traffic patterns and use of non-vehicular travel options.
- G. Maintenance. The Applicant will maintain in good repair and as necessary replace in-kind all pedestrian realm elements located on the Application Property, including within the streetscape (Interim Streetscape and Final Streetscape), the pedestrian and bicycle trails (exclusive of the bicycle/pedestrian bridge crossing of I-495, see Proffer 31.I.), and within the Eastern Green Space (See Proffer 32). With respect to streetscape elements, the pedestrian realm includes all areas between the back of curb and the back of the sidewalk whether located within the public right-of-way or on private land with public access easements. The Applicant will 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. Maintenance commitments include, as applicable:
- (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 as Low Impact Design facilities; and
- (xii) All urban park amenities including horticultural care, maintenance of all water features, irrigation, lighting, furnishings, paving, and art.

28. Final Streetscape. Final Streetscape elements include:

A. Gallows Road. Final Streetscape for Gallows Road is a Current FDPA Element and is shown with specificity on the Gallows Road Plans (Sheets 04.10 – 04.13), the Hardscape Plan Enlargements – Sections 2, 4, and 6 (Sheets L-04.19, L-04.21, and L-04.23), and Sections A – E (Sheets 09.1 and 09.2), and includes the following:

- (i) A 10 foot landscape amenity panel located immediately behind the back of curb, east side of Gallows Road, north of Innovation Park Drive, with street trees planted as may be permitted by VDOT;
- (ii) A 10 foot cycle track, east side of Gallows Road, north of Innovation Park Drive;
- (iii) An 8 foot landscape amenity panel with street trees, east side of Gallows Road, north of Innovation Park Drive;
- (iv) An 8 foot clear pedestrian sidewalk adjacent to the second landscape amenity panel, east side of Gallows Road, north of Innovation Park Drive;
- (v) Replacement of the existing 5 foot concrete sidewalk, east side of Gallows Road, south of Innovation Park Drive;
- (vi) A 10 foot shared use path, west side of Gallows Road, south of IFMC Grey Entrance to Woodburn Road; and
- (vii) Variable buffer areas as shown on the Development Plan, east side of Gallows Road, north of Innovation Park Drive.

Gallows Road Final Streetscape will be constructed concurrent with the construction of the Gallows Road Improvement Package set forth in Proffer 16. In addition, the Applicant will construct the interim “gateway plazas” shown on Sheets L-04.19 and L-04.21 as part of the Gallows Road Final Streetscape.

B. Interior Streets other than Innovation Park Drive. Final Streetscape for Streets A (including as Street A wraps Park 2 to intersect Innovation Park Drive), B, C, D, and Peterson Discovery Drive is not a Current FDPA Element and is shown conceptually on Sheets 05.2 – 05.4 and as Sections K – P (Sheet 09.6) and includes the following:

- (i) An 8 foot landscape amenity panel located immediately behind the back of curb with street trees;
- (ii) An 8 foot clear pedestrian sidewalk adjacent to the landscape amenity panel; and
- (iii) A variable, but minimum 4 foot, building zone between the back of the pedestrian sidewalk and the face of the building that is designed to allow access

to the building or additional landscaping adjacent to residential uses or, with respect to Street A, storefront browsing, outdoor display, outdoor dining, and similar uses adjacent to retail and service uses. Outdoor display and outdoor dining areas will be permitted within the building zone on Street A, but not within pedestrian sidewalk areas. Building canopies will be permitted to extend into the pedestrian sidewalk along Street A as long as they have a minimum vertical clearance of 10' from the sidewalk to the underside of the canopy. Proposed tree locations will be adjusted where building canopies conflict with the 10-year canopy spread of proposed trees. LIDs will be permitted within the streetscape.

- (iv) Final Streetscape for such interior streets will be shown on New FDPAs submitted for adjacent new Buildings. The final "gateway plazas" shown on Sheets L-08.9 and L-08.10 will be shown on New FDPAs submitted for the respective adjacent new Building. On street parking may be provided in the Final Streetscape condition as determined at the time of New FDPA approval for new Buildings.

- C. Innovation Park Drive. Final Streetscape for the east side of Innovation Park Drive, and its median, is a Current FDPA Element, is shown on Sheets L-04.18, -20, -22, and -24, and Sections G – K (Sheets 09.3, 09.4 and 09.6) and includes variable streetscape conditions as shown on the Development Plan. Final Streetscape for the west side of Innovation Park Drive is not a Current FDPA Element, is shown conceptually on Sheets 05.2, 05.3, and 05.4, and will be shown on New FDPAs submitted for adjacent new Buildings.
- D. Final Street Trees. Typical street tree planting sites are depicted on the Development Plan, subject to revisions as may be approved at the time of New FDPAs for new Buildings, or at site plan review by UFMD, or as necessitated by providing bus stop shelters, clear zone requirements, etc. The Applicant will retain the services of a certified arborist or Registered Consulting Arborist to monitor the design and inspect the planting of the street trees and will 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, will be used to satisfy the following specifications for all planting sites:
- (i) 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;
 - (ii) Minimum soil volume for Category III and Category IV trees (as defined in Table 12.17 of the PFM) will 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 will provide soil conditions favorable for root growth;
 - (iii) Typical soil specifications will 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 will be provided after rough grading but before fine grading of the landscape/plant areas. Soil media as described in the soil specifications will be installed at time of planting;

- (iv) All shade trees will be a minimum of 3 inch caliper at the time of planting; all flowering trees will be a minimum of 1 to 2 inch caliper at the time of planting; and all new evergreen trees will be a minimum of eight (8) feet in height at the time of planting; and
- (v) Street trees planted within existing utility easements that are removed to facilitate repairs of utilities in these easements will be replaced.

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

- E. 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 will 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 will 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.
 - F. Final Streetscape Furnishings, Materials, and Lighting. Unified and high quality streetscape materials will be provided with the Final Streetscape and may include unit pavers, seat walls, tree space edging, lighting, benches, trash and recycling receptacles and other hardscape elements. A Streetscape Furnishing and Materials Plan will be provided as part of all New FDPAs. These plans will include general product information and approximate locations of furnishings and materials to be located in the Final Streetscape. Lighting will be provided as set forth in Proffer 40.
 - G. Phasing of Final Streetscape. Final Streetscape will be constructed in phases, in connection with construction within adjoining Blocks. As determined at the time of New FDPA approval for new Buildings, where the Final Streetscape is not implemented during certain phases of development, the Applicant will provide Interim Streetscape improvements as described in Proffer 29.
29. Interim Streetscape. Interim Streetscape is a Current FDPA Element, is shown with specificity on the Hardscape Plan and Hardscape Plan Enlargements (Sheets L-04.17 – L-04.24), and with respect to the internal grid of streets, includes the following:
- A. An 8 foot landscape amenity panel located immediately behind the back of curb with street trees only in those locations specifically shown on the Development Plan (or as otherwise proposed by the Applicant at the time of site plan); and
 - B. A 6 foot clear pedestrian sidewalk adjacent to the landscape amenity panel.

- C. Interim street trees, where provided, will be a minimum 2 inch caliper and will not be required to meet the minimum planting width/area or soil remediation standards for Final Street Trees.
 - D. Except as shown on Sheets 04.0 and 04.1, no on-street parking or curb cuts will be provided in connection with the Interim Streetscape.
30. Other Interim Conditions and Standards. Due to the size of the Application Property and the time anticipated for its build-out, phased redevelopment may result in various interim conditions. At the time of New FDPA submissions for new Buildings, the Applicant will identify the specific proposed interim conditions within the New FDPA area and outside the New FDPA area and will ensure such conditions provide reasonable pedestrian connections, vehicular circulation and access, Interim Streetscaping and landscaping, public park treatments, and screening/treatment of exposed/partially complete above grade parking structures.
- (i) If an interim condition includes partial demolition of an existing structure, the New FDPA for that phase will 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.
 - (ii) Interim conditions will 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 such conditions may be modified and adjusted with New FDPA approval.
 - (a) Provision of interim designs for publicly accessible open spaces may include interim landscaping, pedestrian pathways, seating, signage, lighting and recreational facilities as determined at the time of New FDPA. Interim public open space areas will be clearly signed as an interim or temporary facility.
 - (b) 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 New FDPA or site plan approval.
 - (c) Application of a screening system to the first two levels of above grade garage structures (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 will be composed of an architecturally designed system that may reflect basic architectural lines of the permanent facades, and that will 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 will also be considered as part of the interim screening system. The specific screening system to be utilized for each building will be determined at the time of New FDPA approval

and graphically depicted on the New FDPA. Alternate temporary garage screening may be approved with New FDPA approval.

- (d) Grading and seeding of areas on the Application Property where existing improvements are removed to accommodate a portion of the new development, and are not scheduled to commence construction within 12 months (or as otherwise may be required on the approved site plan).
- (e) Where appropriate, provision of attractive temporary construction fencing, which may include public art, signage or wayfinding elements. Signage will be in keeping with Article 12 of the Ordinance or alternatively in accordance with an approved Comprehensive Sign Plan.

31. Pedestrian and Bicycle Improvements. Pedestrian and bicycle connectivity will be provided throughout the Application Property generally consistent with the concepts shown on the Development Plan, through the use of elements such as sidewalks, trails, and open spaces.

- A. Existing Improvements. Pending further development on the Application Property, the Applicant will maintain the existing sidewalk/trail improvements and related features (such as existing fitness stations, lights, signs, benches, and trash receptacles) on the Application Property, except as any part of the same are otherwise maintained by others (e.g., VDOT) with respect to the Gallows Road sidewalk and street lights) and except as the same are shown on the Development Plan to be removed. The Applicant may relocate/realign portions of the existing sidewalk/trail system on the Application Property without requiring a PCA or amendment to the Development Plan provided that a continuous (except for road crossings) network is maintained throughout the Application Property and the change is otherwise in substantial conformance with the Development Plan.
- B. Interim Improvements. The Applicant will construct new sidewalk/trail improvements in connection with construction of Current FDPA Elements that result in the removal of portions of the existing sidewalk/trail improvements in order to provide a continuous (except for road crossings) network throughout the Application Property. By way of example, the section of new sidewalk/trail improvements shown on the Development Plan that encircles the stormwater management pond will be provided in connection with construction of such pond, when the pond is constructed.
- C. New Improvements. The Applicant will construct new pedestrian improvements within the Interim Streetscape and Final Streetscape as provided in Proffers 28 and 29.
- D. Pedestrian Access. The Applicant will keep the pedestrian circulation improvements on the Application Property open and available for use by

employees, patients and visitors of the Application Property during the operating hours of the uses on the Application Property, subject to reasonable rules and regulations (e.g., limiting access to certain unlighted areas after daylight hours). While public access easements will be granted to the Board of Supervisors for these areas, the Applicant will retain private ownership and reserves the right to reasonably restrict access for limited times for special events, security, maintenance and repairs or safety purposes. Such public access easements will be recorded prior to issuance of the first RUP or Non-RUP for the associated new development consistent with the phasing of development as provided in these Proffers.

- E. Bicycle Parking. The Applicant will provide bicycle racks and bike storage areas throughout the Application Property, the specific locations of which will be determined at the time of New FDPA approval and confirmed at the time of site plan approval in coordination with FCDOT. The bike racks will be inverted U-style racks or other design as approved by FCDOT. The total number of bike parking/storage spaces will be determined in cooperation with the County Bike Coordinator and as specified in the County's Bicycle Parking Guidelines.
- F. Bicycle Share Facility. The Applicant will provide space and an associated easement or license agreement to accommodate a bike share station with up to 15 bicycle docks in each of Block I and either Block VI or VII (the "Bike Share Stations"). The specific locations will be determined by the Applicant and the bike share provider, in coordination with FCDOT, prior to the site plan approval for the first new Building within those respective Blocks. The Applicant will install the Bike Share Stations prior to the issuance of the first tenant RUP or Non-RUP for such new Buildings. The Applicant will not be responsible for the ongoing operation or maintenance of the Bike Share Stations. Following installation, the Applicant will have no further obligation to fund or provide future bike share stations or relocation of the same.
- G. Marked Crosswalks. To the extent not already provided, the Applicant will install marked, multi-leg pedestrian crosswalks at all signalized intersections adjoining the Application Property, as well as at the intersection of Wellness Boulevard and Woodburn Road, subject to VDOT approval, in connection with the construction or modification of the respective intersection as set forth in Proffers 15 and 16.
- H. Bicycle Lanes. As part of the Gallows Road Final Streetscape (See Proffer 28), the Applicant will construct an off-road cycle track along the Application Property's frontage on Gallows Road as shown on the Development Plan. Also, as shown on Sheet 04.11 and 04.12, the Applicant will include on-street bicycle lanes within Street A and Street D. In addition, the Applicant will allow shared use of bicycles on the other internal streets within the Application Property.
- I. Bicycle/Pedestrian Bridge Crossing of I-495. The Development Plan shows two potential locations on the Application Property where the internal bicycle/pedestrian network could connect to a bicycle/pedestrian bridge crossing of

I-495. The Applicant will coordinate with FCDOT to determine a final location on the Application Property for the bridge crossing, and the Applicant will dedicate to the County necessary easements or right of way to allow for the construction, use, and operation of such bridge crossing. In addition, the Applicant will contribute a total of \$700,000 toward the cost of design and preliminary engineering for the bridge crossing prior to site plan approval for the third new Building on the Application Property. The Applicant will also provide access to the bridge crossing from the trail system as provided in Proffer 31.D. The location of anticipated future road improvements identified in the Comprehensive Plan will be taken into consideration (by others) in the design of the bridge crossing in order to coordinate the design of both road and bridge improvements.

- J. Pedestrian and Bicycle Circulation System Plan. Prior to the issuance of the first RUP or Non-RUP for the first new Building constructed on the Application Property in excess of a total of 1,700,000 square feet of GFA, the Applicant will submit to FCDOT a coordinated pedestrian and bicycle circulation system plan that demonstrates how the Application Property connects to nearby destinations, including the Dunn Loring-Merrifield Metrorail Station, the Town Center, Inova Fairfax Hospital, Gallows Road south of the I-495 bridge, and Fairview Park. This plan will identify opportunities to improve the connectivity of the pedestrian and bicycle network in the area serving the Application Property, including across Arlington Boulevard towards Dunn Loring-Merrifield Metrorail Station and the Town Center to the north, and across I-495 towards Fairview Park and Annandale to the east. The plan will also analyze interim conditions and improvements necessary to provide enhanced multimodal connectivity. For clarity, the Applicant's obligation under this Proffer 31.J. is to prepare and submit the pedestrian and bicycle circulation system plan. This Proffer does not require the Applicant to implement, or otherwise contribute to the implementation of, such plan.

32. Eastern Green Space. The Development Plan depicts a substantial area of contiguous open space on the eastern portion of the Application Property (collectively, the "Eastern Green Space"). The Applicant will maintain the Existing Green Space as follows:

- A. Areas within the Eastern Green Space shown on the Development Plan as "Tree Save Areas" will remain undisturbed except for the installation of new and improved trails, park-like improvements, utility connections and stormwater management facilities (e.g., the SWM Pond, the underground stormwater facility, LIDs, and related infrastructure) bridge crossings, potential stream restoration activity, potential right of way dedications, and other features shown on the Development Plan and subject to minor modifications as may be approved in conformance with these Proffers. Any disturbance within such areas will require implementation of a tree preservation plan pursuant to Proffer 33.
- B. The Applicant will prepare a concept plan for the Eastern Green Space, demonstrating the integration of the Eastern Green Space as a design feature of the Application Property, to be submitted prior to issuance of the first RUP or Non-

RUP for the first new Building constructed on the Application Property. Such concept plan will address the following:

- (i) improvements to the existing trail system within the Eastern Green Space as generally shown on the Development Plan;
- (ii) additions to the existing trail system within the Eastern Green Space as generally shown on the Development Plan
- (iii) revegetation of portions of the Eastern Green Space with non-invasive, native plantings;
- (iv) removal and control of invasive species within the Eastern Green Space;
- (v) restoration and control of stream tributaries in the central and southern portions of the Application Property, as appropriate to address flows and resulting erosion and in consultation with DPD, LDS and the Department of Public Works and Environmental Services (“DPWES”);
- (vi) locations for additional, park-like improvements within the Eastern Green Space (e.g. “healing gardens”, fitness stations); and
- (vii) a schedule for implementation.

- C. Implementation of the Eastern Green Space concept plan as described in Proffer 32.B. may occur over multiple phases of development, and will need to be phased in connection with construction and implementation of other improvements (e.g. stormwater management facilities as described in Proffer 32.A.) within the Eastern Green Space, provided that, at a minimum, the improvements to the existing trail system within the Eastern Green Space (Proffer 32.B.(i)) are implemented (to the extent they do not conflict with other improvements) and public access is provided to such features (Proffer 31.D) prior to issuance of the first RUP or Non-RUP for the first new Building constructed on the Application Property. Additional enhancements to the Eastern Green Space may be made over time as development proceeds and programmatic related elements (e.g., “healing gardens” in connection with site programming) are known.

33. Tree Preservation.

- A. Tree Inventory and Condition Analysis: The Applicant will submit a Tree Inventory and Condition Analysis as part of site plans for new development that include the clearing and grading of previously undisturbed areas of the Application Property. Such Tree Inventory and Condition Analysis will be limited to a thirty-five (35) foot wide area adjacent to the limits of clearing and grading shown on the respective site plans (e.g., ten (10) feet interior to the limits of clearing and grading and twenty-five (25) feet exterior to the limits of clearing and grading). The Tree Inventory and Condition Analysis will be prepared by a Certified Arborist or Registered Consulting Arborist (the “Project Arborist”), and will include elements of PFM § 12-0307 applicable to the project site.
- (i) Invasive Plant Species Management: In connection with the Tree Inventory and Condition Analysis, the Project Arborist will provide an Invasive Plant Species Management Plan specifying the common and scientific name of

invasive species found within the area subject to the Tree Inventory and Condition Analysis and proposing the efforts to manage, control and dispose of invasive plants within such area.

- B. Tree Preservation Plan: The Applicant will submit a Tree Preservation Plan and Narrative as part of its site plan submissions for new development that include the clearing and grading of previously undisturbed areas of the Application Property. Such Tree Preservation Plan will be limited to the area of the Tree Inventory and Condition Analysis (as provided in Proffer 33.A.). The Tree Preservation Plan will be prepared by the Project Arborist, and will include elements of PFM § 12-0309 applicable to the project site.
- C. Pre-construction Meeting: Prior to the pre-construction meeting the Applicant will have the approved limits of clearing and grading flagged with a continuous line of flagging. The Project Arborist will attend the pre-construction meeting to review the limits of clearing and grading with a UFMD representative to determine where adjustments to the clearing limits can be made to increase the area of the tree preservation or to increase the survivability of trees at the limits of clearing and grading without materially affecting the Applicant's proposed construction. Such adjustments will be recorded by the Project Arborist and tree protection fencing (as provided in Proffer 33.D.) will be implemented under the Project Arborist's supervision based on these adjustments. The Applicant will notify the Providence District Supervisor's office prior to the pre-construction meeting to afford the Supervisor's office the opportunity to convene a meeting of interested stakeholders to review the flagged limits of clearing.
- D. Tree Protection Fencing: The Applicant will provide tree protection fencing consisting of either (i) four-foot high welded wire attached to six-foot steel posts driven 18 inches into the ground and space no further than 10 feet apart, or (ii) super silt fence.
- E. Tree Preservation Measures: Tree preservation measures will be clearly identified, labeled, and detailed on the Erosion and Sediment Control Plan sheets of the respective site plans and on Tree Preservation Plans (as provided in Proffer 33.B.). Tree preservation measures may include the following, among other things: root pruning, crown pruning, mulching, watering, etc. Tree Preservation Plans will specify how preservation measures will be implemented. Tree preservation activities will be completed during implementation of Phase 1 of the Erosion and Sediment Control Plans.
- F. Site Monitoring: The Project Arborist will be present on site during the implementation of the Tree Preservation Measures (as provided in Proffer 33.E.) and the installation of Phase 1 Erosion and Sediment Control measures. During implementation of Phase 2 Erosion and Sediment Control Plan, the Project Arborist will visit the site on a regular basis to monitor tree preservation measures and ensure that activities are conducted as identified in the Tree Preservation Plan. The Project Arborist will document its site visits and submit reports of the same to UFMD. A

monitoring schedule for the Project Arborist will be described and detailed in the Tree Preservation Plan.

- G. Demolition within Tree Preservation Areas. The demolition of any existing structures or site features within or immediately adjacent to tree preservation areas shown on the Development Plan will be accomplished in the least disruptive manner practical as reviewed and approved by UFMD and in conformance with this Proffer 33 as applicable. Under such circumstances, any tree protection fencing will be in place and verified by UFMD prior to commencement of demolition activities. Proposed demolition will be included in the site monitoring requirements included in the Tree Preservation Plan and in the follow on submissions of site plans related thereto.
- H. Reduction of Tree Preservation for Beltway Widening. This Proffer 33 will no longer apply with respect to any portion of the Application Property that is dedicated for future widening/improvement of I-495 as set forth in Proffer 19.
- I. Tree Preservation Bond. The Project Arborist will determine the appraisal value of all trees 12 inches in diameter or greater designated to be preserved in the Tree Inventory and Condition Analysis and located on the Application Property where the limits of clearing and grading intersect the critical root zone of the tree. These trees and their value will be identified on the Tree Preservation Plan at the time of the first and all subsequent submissions of the respective site plans. The appraised value will take into consideration the age, size and condition of these trees and will be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, subject to review and approval by UFMD. The Location Factor of the Trunk Formula Method will be based on projected post-development Contribution and Placements ratings. The Site Rating component will be equal to at least 80%.

At the time of the respective site plan approvals and prior to the pre-construction meeting, the Applicant will post a bond or letter of credit payable to the County of Fairfax equal to 50% of the appraisal value of the trees for which a value has been determined in the tree appraisal (the "Bonded Trees"). Bonded Trees that die or are dying due to unauthorized construction activities, as determined by the Project Arborist in consultation with UFMD staff, will be replaced. The replacement trees will be of equivalent canopy area based on projected 10-yr. canopy area as specified in Public Facilities Manual Table 12.17 and approved by UFMD. For any Bonded Tree that is dead or dying due to unauthorized construction activities, or removed without approval, the Applicant will also make a payment equal to the appraised value of the Bonded Tree to a fund established by the County for furtherance of tree preservation and planting objectives. At the time of approval of the final RUP or Non-RUP for the project, the Applicant will be entitled to request a reduction in the letter of credit to an amount up to 20% of the total amounts originally committed. Any cash or funds remaining in the tree bond will

be released at the time of the project's final bond-release upon approval in writing by UFMD.

ARCHITECTURAL DESIGN

34. Building Architecture.

- A. The architectural treatment of all new Buildings on the Application Property will create a sense of identity and place, and will create human scale through the use of unifying elements such as materials, textures, color, window treatments, decorative details, lighting, and landscaping at the pedestrian level. Such Buildings will be designed with high quality architecture and building materials that, at the time an individual New FDPA is approved, are typically used on the exterior of Class A buildings of a similar use.
- B. Architectural plans, elevations, illustrations, materials and heights may be revised subsequent to New FDPA approval as a result of final architectural and engineering design, provided the quality of design remains in substantial conformance with that shown on the New FDPA and as set forth in these Proffers, as determined by the Zoning Administrator.

35. Parking Structure Facades. Parking structure façade design features will be depicted on the New FDPAs for each new Building and will be designed to provide a pleasant and attractive experience along the streetscape in accordance with the following:

- A. At and for one level above the street level, screening composed of architectural design features or landscaping to minimize views into the garage parking spaces from street level will be applied. Where garage space is located beneath a tower element, the general façade detailing of the tower above may be continued down to the street level or to the top of the retail level storefront. In some cases, as determined by the Applicant, retail signage consistent with Article 12 of the Zoning Ordinance or any approved Comprehensive Sign Plan and architectural expressions may be extended above the street level to provide a variety of storefront experiences, as may be permitted by the Zoning Ordinance. In other instances, as determined by the Applicant, an active layer of occupied space may screen the garage areas from street view. Regardless, particular attention will be given to screen exposed garages that are visible from Gallows Road.
- B. Parking garage and loading/trash/service areas along the ground floor facades will incorporate screening composed of recessed entryways, or other architectural or landscaping treatments in connection with roll down doors designed to mitigate views into the structures from street levels or the general façade detailing of the building above such areas may be continued to the ground plane.

36. Building Practices.

A. Residential Building Certifications.

- (i) The Applicant will include, as part of the building plan submission for any residential Building to be constructed on the Application 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-NC®) 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 (v) as an alternative, a LEED or equivalent-accredited professional (the "LEED-AP") will 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.

- (ii) The Applicant will designate the Chief of the 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.
- (iii) Prior to the building plan approval for the new Building to be constructed, the Applicant will post a "green building escrow" in the form of cash or a letter of credit from a financial institution acceptable to LDS as defined in the PFM, in the amount of \$2.00/square foot of GFA, as shown on the approved site plan. This green building escrow will 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.
- (iv) At the time LEED-NC certification is demonstrated to the EDRB, the escrowed funds or letter of credit will be released to the Applicant.

If prior to bond extension, reduction or final bond release for the applicable Building, 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 Application Property there is the potential for multiple bond extensions or reductions prior to full build out, the time frame for the provision of the documentation described above will 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.

If prior to bond extension, reduction or final bond release for the applicable Building, 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 Application Property there is the potential for multiple bond extensions or reductions prior to the full build out, the time frame for the provision of the documentation described above will 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.

- (v) As an alternative to the actions outlined in the Paragraphs (i), (iii), and (iv) 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 will 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 applicable Building, the Applicant will submit documentation to EDRB, confirming the status of LEED certification.

(vi) As an alternative to the actions outlined in the Paragraphs (i), (ii), (iii), (iv) and (v) above, if applicable and if the Building 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 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 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 EDRB of DPD from a home energy rater certified through Home Innovation Research Labs that demonstrates that the dwelling unit has attained the certification prior to final bond release for the applicable 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 final bond release for the applicable Building.

If one of the alternate residential rating systems listed herein is selected as an alternative to the previous paragraphs, the Applicant will 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 will 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, 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 Application Property there is the potential for multiple bond extensions or reductions prior to full build out, the time frame for the provision of the documentation described above will 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.

B. Non-Residential Building Certifications.

(i) The Applicant will include, as part of the building plan submission for any new non-residential Building to be constructed on the Application 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 (v) as an alternative, the LEED-AP will 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.

- (ii) The Applicant will 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.
- (iii) Prior to the building plan approval for the new Building to be constructed, the Applicant will post a "green building escrow" in the form of cash or a letter of credit from a financial institution acceptable to LDS as defined in the PFM, in the amount of \$2.00/square foot of GFA, as shown on the approved site plan. This green building escrow will 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.
- (iv) At the time LEED-CS Silver certification is demonstrated to EDRB, the escrowed funds or letter of credit will 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 Application Property there is the potential for multiple bond extensions or reductions prior to full build out, the time frame for the provision of the documentation described above will 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 Application Property there is the potential for multiple bond extensions or reductions prior to full build out, the time frame for the provision of the documentation described above will 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.

- (v) As an alternative to the actions outlined in the Paragraphs (i), (iii), and (iv) 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 new Building to be constructed, the Applicant will 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 (iii) 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.

- C. Alternative Building Certifications. Where the Applicant has provided evidence sufficient for EDRB to find that an alternative green building program that is administered by an independent third party or a propriety program that has demonstrated equivalence to LEED or another independent third party rating system, other than the foregoing programs identified in this Proffer 36, will ensure that equivalent environmental and energy efficiency will be achieved in the project, the Zoning Administrator may approve the use of such alternative program, subject to such conditions as may be reasonably necessary to ensure that the alternative program will achieve the goals of this Proffer 36.

37. Sustainable Energy Practices. To promote efficient, renewable and sustainable energy practices, the Applicant will provide the following information with each New FDPA submission:
 - A. Electric Vehicle Charging Infrastructure. The Applicant will provide recharging stations that serve electric cars in 1% of the parking spaces within each new parking structure. The Applicant will also provide space and infrastructure to accommodate electric vehicle-ready parking spaces for up to a total of 5% of the parking spaces within each new parking structure (including the 1% of spaces referenced in the prior sentence) should the Applicant elect to install them. "Electric vehicle-ready" means the provision of space, conduit banks, conduits and access points allowing for the easy installation of vehicle charging stations in the future, and does not include the installation of transformers, switches, wiring or charging stations. Once the first charging station has been in place for at least 5 years, and if the Applicant demonstrates to the satisfaction of the Zoning Administrator that a particular recharging station is being utilized less than 15% of the time during any 60-day period during the normal operating hours for the parking structure, the Applicant may remove or disable the charging station.
 - 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 will provide to the County aggregated non-proprietary energy and water consumption data, as practicable, for each Building and the entire Application Property.
38. Noise Attenuation. If determined necessary by DPD, prior to New FDPA approval for a new Building, the Applicant will submit a traffic noise analysis to the Chief of the EDRB of DPD 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 will take into consideration development phasing (i.e., which Buildings may, or may not, have been constructed), and how that may affect noise impacts. The Applicant will reduce the interior day-night average sound level ("DNL") to no more than 45 dBA for new residential Buildings and 50 dBA for new office Buildings on the Property. At the time of building plan application for the full shell building permit for any impacted Building, the Applicant will 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 will 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 will be deemed approval of such study.
39. 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 will 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.

40. Lighting. All Final Streetscape lighting will be energy efficient. All on-site, outdoor and parking garage lighting will not exceed that permitted under the Outdoor Lighting Standards of Section 14-900 of the Zoning Ordinance. The same or similar street lights will be used consistently through the Application Property. All parking lot and building mounted security lighting will utilize full cut-off fixtures. Recessed lighting will be directionally shielded to mitigate the impact on the adjacent residences.
41. Construction Lighting. During construction the Applicant will attempt to reduce glare from OSHA, VOSHA, VUSBA and local ordinance required superstructure lighting to the extent allowable without violating aforementioned laws, regulations or policies.
42. Parking Structure Lighting. The Applicant will utilize full cut-off, low intensity or recessed lighting directionally shielded to mitigate the impact on adjacent residences for any lighting along the perimeter or exposed upper level of an above-ground garage not constructed of solid walls. Such lighting will comply with the requirements of Article 14 of the Zoning Ordinance.

PARK AND RECREATIONAL FACILITIES

43. Publicly Accessible Park Spaces.
 - A. The Applicant will provide a minimum of 7.2 acres of park areas accessible to the general public on the Application Property generally in the areas shown on the Development Plan as Parks 1 through 7. The acreage of such areas as shown on the Development Plan may be adjusted at the time of New FDPA or site plan provided that a minimum total of 7.2 acres is provided over the entirety of the Application Property, consistent with the phased implementation set forth in Proffer 43.E.
 - B. The design of Parks 2, 3, 4, 5, and 7 will be in general conformance with the concepts and locations depicted on the Development Plan and may be adjusted at time of site plan approval to allow for final engineering and design considerations. More specifically,
 - (i) Park 2 will be designed primarily to remain an open lawn area for public gatherings, with plantings, pedestrian features, and gathering areas as shown on Sheet L-08.5;
 - (ii) Park 3 will be designed as a mix of active and passive spaces, with plantings, pavers, pedestrian features, and gathering spaces as generally shown on Sheet L-08.6;
 - (iii) Park 4 will be designed generally as a passive space, with plantings and pedestrian features as generally shown on Sheet L-08.7;
 - (iv) Park 5 will be designed generally as a passive space, with plantings and pedestrian features as generally shown on Sheet L-08.7;

- (v) Park 7 will be designed as a neighborhood park serving multiple user groups and include a sport court, a dog park, a children's play area, and other improvements as generally shown on Sheet L-08.8.
- C. The design of Parks 1 and 6 will be advanced at the time of New FDPA for the respective phase of adjacent development.
- D. While public access easements will be granted to the Board of Supervisors for these areas, the Applicant will retain private ownership and reserves the right to reasonably restrict access for limited times for special events, security, maintenance and repairs or safety purposes.
- E. Construction of the respective park areas will occur as follows, or sooner as the Applicant may elect:
 - (i) Park 1 will be constructed prior to the first RUP or Non-Rup for the first of new Buildings 1, 1a, or 2;
 - (ii) Park 2 will be constructed prior to the first RUP or Non-Rup for the first of new Buildings 5, 6, 9, or 11;
 - (iii) Park 3 will be constructed prior to the first RUP or Non-Rup for development on the Application Property in excess of a total of 1,700,000 square feet of GFA;
 - (iv) Park 4 will be constructed prior to the first RUP or Non-Rup for the first of new Buildings 10, 11, or 12;
 - (v) Park 5 will be constructed prior to the first RUP or Non-Rup for the first of new Buildings 13, 14, or 15;
 - (vi) Park 6 will be constructed prior to the first RUP or Non-Rup for new Building 16;
 - (vii) Park 7 will be constructed prior to issuance of the first RUP or Non-RUP for the first new Building constructed following installation of the underground stormwater management system shown on the Development Plan. If not previously constructed, such portions of Park 7 that can be constructed prior to installation of the underground stormwater management system shown on the Development Plan will be constructed prior to the first RUP for the first residential Building constructed on the Application Property, and a plan showing such interim portions of Park 7 will be provided in connection with the New FDPA for the first residential Building.
- F. In connection with park construction, the Applicant will provide wayfinding signage and individual park signs that will enable visitors to the Application Property to find the respective park spaces and understand they are open and available for public use. Such signs will be provided generally consistent with the content and substance of Fairfax County's design guidelines for privately-owned public space, provided that the Applicant may alter the design from the County's adopted standard.

44. Private Amenities and Recreation Facilities for Residents. The Applicant will provide on-site recreational facilities for the future residents of the Application Property. In fulfillment of requirements pursuant to Paragraph 2 of Section 6-209 of the Zoning Ordinance regarding developed recreational facilities, the Applicant will expend a minimum of \$1,900.00 per residential unit on such recreation facilities. Prior to final bond release for each residential building, the balance of any funds not expended on-site will be contributed to the FCPA for the provision of recreation facilities serving the Merrifield Suburban Center.

The specific facilities and amenities to be provided for each individual residential Building or shared between two or more Buildings, which will be for the use and enjoyment of those Building residents, will be determined at the time of New FDPA approval. Amenities will include active recreation facilities, which may include:

- A. Private exterior recreational areas/courtyards on the upper level of the parking podiums, on rooftops, or at grade, as determined at the time of New FDPA approval, with seating areas, specialty landscaping, recreational game tables, sport/bocce courts, lawn 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 with exercise equipment such as stationary bikes, treadmills, weight machines, free weights, etc.;
- D. Clubrooms for resident gatherings or media/entertainment centers;
- E. Business Centers; or
- F. Other areas and amenities e.g. lounges, bike repair rooms, dog wash areas.

The Applicant reserves the right to construct a health club or gym within one or more of the Buildings on the Application Property. The Applicant will have the option of allowing residents of the Application Property to use the facility at no cost. Such facilities will be determined at time of New FDPA submission for the respective Building, and may serve as private recreation amenities for residents of the Application Property if residents are not charged for use. Should this option be implemented, and residents are allowed to use the facility at no cost, the construction costs of the facilities may be counted toward the minimum recreation expenditure described herein.

PUBLIC SCHOOL CONTRIBUTION

45. Public School Contribution. The Applicant will contribute \$12,262 per expected student (based on a ratio of 0.112 students per multi-family residential unit, exclusive of age-restricted units (See Proffer 7.F.) to the Fairfax County School Board to be utilized for capital improvements to schools that serve the Merrifield Suburban Center. Such contribution will be made on or before the issuance of the first RUP for each applicable

residential building on the Application Property and will be based on the actual number of dwelling units built in each building.

If, prior to site plan approval for a respective, applicable 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 will be modified for that building to reflect the then current ratio or contribution. This contribution is not subject to the provisions of Proffer 52.

AFFORDABLE/WORKFORCE HOUSING

46. Affordable and Workforce Housing.

- A. Affordable Dwelling Units. If required by the provisions of Part 8 of Article 2 of the Zoning Ordinance in effect as of the approval date of this Application (the "ADU Ordinance"), the Applicant will provide Affordable Dwelling Units ("ADUs") pursuant to the ADU Ordinance unless modified by the ADU Advisory Board.
- B. Workforce Dwelling Units. The Applicant will provide for-sale or rental housing units within multifamily residential buildings (exclusive of units/buildings allocated to support the academic and research program) (See Proffer 7.F.) to be sold/rented as Workforce Dwelling Units ("WDUs"), such that a total of the greater of twenty percent (20%) of the total number of non-academic/research program residential units or twelve percent (12%) of the total residential units constructed on the Application Property are sold or rented as either ADUs or WDUs. The WDUs will be allocated proportionately among all non-academic/research residential uses and will include a marketing program established by the Applicant to target the workforce at the Inova Fairfax Medical Campus. Such program will serve residents at income levels consistent with the Board of Supervisors' Countywide Workforce Dwelling Unit Administrative Policy Guidelines adopted October 15, 2007 (the "Adopted WDU Policy"). When the required number of WDUs results in a fractional unit less than 0.5, the number will be rounded down to the next whole number. When the required number of WDUs results in a fractional unit equal to or greater than 0.5, the number will be rounded up to the next whole number. If ADUs are provided on the Application Property, then both the ADUs and the number of ADU bonus units that would be attributed to the ADUs through the application of the ADU Ordinance, will be deducted from the total number of dwelling units on which the calculation of additional WDUs is made. The Applicant reserves the right to provide fewer than the maximum number of dwelling units shown on the Development Plan. The actual number of ADUs or WDUs will be determined on a building by building basis based on the actual number of non-academic/research program dwelling units provided. The Applicant reserves the right to allocate WDUs among the various buildings such that the percentage of WDU's may be greater or lesser than the applicable percentage in any one building so long as a total of the applicable percentage of WDUs are provided among the total of all applicable dwelling units that are either

built or under construction on the Application Property and provided that WDU's are dispersed among buildings in accordance with the Adopted WDU Policy. In the event that parking spaces are made available for sale or lease to individual market rate dwelling units on the Application Property, a proportionate number of spaces will be made available for sale or lease with each of the ADUs or WDUs.

- C. Policy Changes. Notwithstanding the foregoing, should the Board of Supervisors' countywide policies related to WDUs be amended, the Applicant reserves the right, in its sole discretion, to opt into the new policies, in whole or in part, without the need for a PCA, CDPA, or New FDPA, 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 which the Applicant has elected to opt into will no longer be effective. Further, in the event the Adopted WDU Policy is subsequently amended to raise or lower the target income tiers for qualifying residents, the Applicant will provide WDU units consistent with such amended policy as determined at the time of site plan approval for the respective new Building.
- D. Maximum Residential. Notwithstanding anything to the contrary set forth in this Proffer, the maximum number of residential units on the Application Property will not exceed 705 units. For clarity, rooms in an assisted living facility, nursing facility, or continuing care facility are not considered dwelling units within the 705 dwelling unit cap.

MISCELLANEOUS.

- 47. Timing Considerations. Notwithstanding the timing requirements of these Proffers, upon demonstration that, despite diligent efforts or due to factors beyond an Applicant's control, proffered improvements including the required transportation, publicly-accessible park areas, trail connections, and offsite easements, have been delayed (due to, for example, an inability to secure necessary permission for utility relocations, VDOT, FHWA, or others' approval for traffic signals, necessary easements, site plan approval, etc.) beyond the timeframes specified in these Proffers, the Zoning Administrator may agree to a later date for completion of such improvements.
- 48. Advanced Density/Intensity Credit. Advanced density/intensity credit is reserved consistent with the provisions of the Fairfax County Zoning Ordinance for all eligible dedications described herein, shown on the Development Plan, or as may be required by Fairfax County, VDOT, or pursuant to the PFM, at the time of site plan approval for the Application Property.
- 49. Off-Site Easements. To the extent off-site easements are required to construct improvements related to the public infrastructure or public improvements described in these proffers (such as traffic signals) and the Applicant has not been able to acquire such easements, then the Applicant will no longer be obligated to construct improvements for which easements are not available and, instead, the Applicant will escrow the costs of such improvements with the County for future implementation by FCDOT, VDOT or others.

50. Compliance with Federal, State, and Other Local Laws/Severability. If it is found by a court of competent jurisdiction that any portion of these Proffers violates any Federal, State or other local law, then the offending portion of these Proffers will be deemed null and void and no longer in effect. All remaining conditions of these proffers will remain in full force and effect.
51. Partial PCA/CDPA/New FDPA. Pursuant to Sections 18-204, 16-401(11) and 16-402(10)(D) of the Zoning Ordinance, any portion of the Application Property may be the subject of future applications to amend the Development Plan, Proffered Condition Amendment applications, Special Exception applications, or Special Permit applications without joinder or consent of the owners of the other portions of the Application Property. Previously approved proffered conditions or development conditions applicable to any portion of the Application Property that are not the subject of such an application, will otherwise remain in full force and effect as to that portion of the Application Property.
52. Modification of Monetary Contributions. Except as otherwise specified in these Proffers, all monetary contributions will adjust on a yearly basis from the base month of January 2020 and change effective each January 1 thereafter, as permitted by VA. Code Ann. Section 15.2-2303.3.
53. Sanitary Sewer Analysis. At the time of site plan approval for each new Building, the Applicant will demonstrate the capacity of proposed sanitary sewer lines and connections to the extent required under the PFM. In addition, upon request by the Wastewater Planning and Monitoring Division of DPWES, the Applicant will provide to the County, for informational purposes only, other sanitary sewer capacity studies previously undertaken by the Applicant, if any, that are related to the Application Property.
54. Communication and Coordination. The Applicant will, at least once in every calendar year until one year following issuance of the first Non-RUP for the last building to be constructed under the Development Plan, convene a public meeting open to surrounding and nearby neighborhoods and other organizations. The meeting's purpose will be to provide a report on progress made in the prior year and what actions are planned for the forthcoming year and future years and to receive feedback from the community of interests.
55. Contact Information. Upon approval of the Application, the Applicant will provide the Providence District Supervisor's Office with the name and contact information of a designated individual who is responsible within the Applicant's organization for effective communication, coordination, and complaint resolution. The Applicant will notify the Providence District Supervisor's Office within thirty (30) days of any changes to the designated individual or their contact information.
56. Project Webpage. The Applicant will maintain a project webpage linked to the Applicant's website to facilitate communication about the project with the surrounding community and to which the Applicant will post, among other things, the contact information for the Proffer 55 designated point of contact to respond to community inquiries about the project and timely notice of the submission by the Applicant of New FDPAs, PCAs, CDPAs, and other such applications.

57. Successors and Assigns. These Proffers will bind and inure to the benefit of the Applicant and its successors and assigns.
58. Counterparts. These Proffers may be executed in one or more counterparts, each of which when so executed and delivered will be deemed an original, and all of which taken together will constitute one and the same instrument.

[SIGNATURES BEGIN ON THE NEXT PAGE]

APPLICANT/GROUND LESSEE (TITLE OWNER FOR ZONING PURPOSES BY VIRTUE OF A GROUND LEASE IN EXCESS OF 30 YEARS) OF TAX MAP 49-4 ((1)) 57

INOVA HEALTH CARE SERVICES

By: Inova Health System Foundation, its sole member

By: *Alice H. Pope*

Name: Alice H. Pope

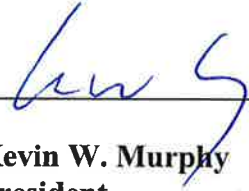
Its: Chief Financial Officer

[SIGNATURES CONTINUE]

GROUND LESSOR/TITLE OWNER OF TAX MAP 49-4 ((1)) 57

EXXONMOBIL FOUNDATION

By: _____


Kevin W. Murphy
President

[SIGNATURES TO PROFFERS PCA 74-7-047-02-02 END]