

## **PROFFERS**

### **PCA 2000-MV-046**

October 11, 2019

Pursuant to Section 15.2-2303 (A) of the Code of Virginia (1950, as amended), Avention Holdings I, LLC, a North Carolina limited liability company, on behalf of Huntington Metro LLC, a Virginia limited liability company, itself, and their respective successors and assigns (together, the “Applicant”), in PCA 2000-MV-046 (the “Application”) filed on property identified as Fairfax County tax map reference numbers 8302 ((38)) C and 83-3 ((1)) 88G (collectively, the “Property”) hereby proffers that development of the Property will be in accordance with the following conditions, provided that the Fairfax County Board of Supervisors (the “Board”) approves the Application. In the event the Board does not approve the Application or the Board’s approval is overturned by a court of competent jurisdiction, these proffers will be considered withdrawn and will be null and void.

### **GENERAL**

1. Conceptual/ Final Development Plan. The Property must be developed in substantial conformance with the Conceptual Development Plan (CDP) and Final Development Plan (FDP) entitled "AVENTON HUNTINGTON CONCEPTUAL DEVELOPMENT PLAN AMENDMENT, FINAL DEVELOPMENT PLAN AMENDMENT, PROFFERED CONDITIONS AMENDMENT, CDPA/FDPA/PCA (2000-MV-046)", prepared by VIKA Virginia LLC dated July 12, 2019, revised through October 11, 2019, and containing thirty-five (35) sheets.
2. Elements of CDP. Notwithstanding the fact that the CDP and FDP are presented on the same plan, the elements that are components of the CDP are limited to the general location of the points of access, the general location of the buildings and parking garages, the minimum and maximum gross floor area ("GFA"), the mix of uses, minimum and maximum building heights, the general location of the limits of clearing and grading, and the general quality and character of the streetscape. The Applicant may request amendments to the Final Development Plan (“FDP”) pursuant to Section 16-402 of the Fairfax County Zoning Ordinance (the “Zoning Ordinance”) for all other elements of the CDP not specifically proffered herein.
3. Minor Modifications. Minor modifications to the CDP/FDP may be permitted when necessitated by final site design or engineering, pursuant to Section 16-403(4) of the Zoning Ordinance. Minor modifications of building footprints may be permitted and the number of residential units (as defined herein) and corresponding adjustments made in required parking and Workforce Dwelling Units ("WDIJs") may be made, so long as (a) the provided open space is not reduced; (b) the building height is not increased; (c) the setbacks to the peripheral lot lines are not diminished; and (d) the development otherwise is in substantial conformance with the CDP/FDP as determined by the Zoning Administrator.

4. Lot Yield and Uses. The principal use of the Property will be multiple family dwellings. The Property may be developed with up to 379 multifamily dwelling units, with a maximum density of 94.4 dwelling units per acre.
5. Architectural Design. The architectural design and building materials must be in general conformance with the illustrative elevations shown on the CDP/FDP, but may be modified by the Applicant as part of final engineering and building design, provided that such modifications provide a similar quality of design. Exterior building materials may include, but are not limited to: brick or other masonry/stone, aluminum, steel or other metal, glass, cementitious paneling and siding, aluminum/vinyl windows, and architectural pre-cast concrete, provided that final architectural details, roofs and accents may include other materials.

## **TRANSPORTATION**

6. Frontage Improvements. Prior to the issuance of the first RUP for the multifamily residential building to be constructed on the Property, the Applicant must construct those frontage improvements along the Property's Huntington Park Drive frontage as generally shown on Sheet C-06A of the CDP/FDP.
7. Bicycle Parking. The Applicant must provide bicycle racks, lockers, and storage areas ("Bike Facilities") within the multifamily residential building. Bike Facilities must be provided at the rate of one (1) space for every three (3) multifamily dwelling units. The total number, final location, and type of Bike Facilities will be determined at site plan and prior to site plan approval in consultation with the Fairfax County Department of Transportation Bicycle Coordinator or their designee. Bike Facilities must be installed prior to issuance of the first RUP for the building.
8. Vehicle Parking. Vehicle parking must be provided in accordance with the CDP/FDP. If fewer multifamily units are ultimately developed on the Property than are shown on the CDP/FDP, as determined by the approved site plan, then the number of parking spaces provided may be reduced in accordance with the parking ratio included on the CDP/FDP without the need for an amendment to these Proffers ("PCA") or the CDP/FDP. The Applicant reserves the right to pursue future parking reductions and shared parking arrangements for the Property as may be permitted by the Zoning Ordinance without the need for an amendment to these Proffers or the CDP/FDP.
9. Offsite Transportation Improvements. Prior to issuance of the first RUP for the new building to be constructed on the Property, the Applicant will construct the following off-site transportation improvements:
  - a. Bus Route. The Applicant must relocate and reconstruct Biscayne Drive to connect directly to Huntington Park Drive in the areas and dimensions generally shown and described Sheet C-07A of the CDP/FDP. The final location of

Biscayne Drive will be determined at site plan and must be approved by FCDOT and the Fairfax County Park Authority ("FCPA").

10. Transportation Demand Management. This Proffer sets forth the programmatic elements of a transportation demand management program ("TDM Program") that must be implemented by the Applicant, and subsequently the property owner, to encourage the use of transit (Metrorail and bus), other high-occupant vehicle commuting modes, walking, biking, and teleworking, all in order to reduce automobile trips generated by the residential uses constructed on the Property.

- a. Definitions. For purposes of this Proffer, (i) "Stabilization" will be deemed to occur one (1) year following issuance of the last RUP for the multifamily residential building to be constructed on the Property, and (ii) "Prestabilization" will be deemed to occur any time prior to Stabilization.
- b. Transportation Demand Management Plan. The proffered elements of the TDM Program as set forth below will be more fully described in a TDM Plan submitted by the Applicant concurrent with the first site plan submission (the "TDM Plan"). It is the intent of this Proffer that the TDM Plan will adapt over time to respond to the changing transportation related circumstances of the Property, the surrounding community and the region, as well as to technological and/or other improvements, all with the objective of meeting the trip reduction goals as set forth in these Proffers. Accordingly, modifications, revisions, and supplements to the TDM Plan as coordinated with the Fairfax County Department of Transportation ("FCDOT") can be made without the need for a PCA, provided that the TDM Plan continues to reflect the proffered elements of the TDM Program as set forth below.
- c. Trip Reduction Goals. The objective of the TDM Plan will be to reduce the number of PM peak hour vehicle trips generated by the residential uses located within the Property through the use of mass transit, ridesharing, and other strategies, including, but not limited to, those outlined in the TDM Plan. In addition, the implementation of enhanced pedestrian and bicycle connections/facilities will provide safe and convenient access to nearby Metrorail and bus facilities thereby encouraging commuting options other than the automobile to residents, employees and visitors to the Property.
  - i. Baseline. The baseline number of PM peak hour residential vehicle trips for the proposed units within the Property against which the TDM Goals (as defined in subparagraph c.ii) will be measured will be derived upon the number of residential units that are site plan approved, constructed, and occupied on the Property as part of the proposed development at the time traffic counts are conducted in accordance with these Proffers and using the trip generation rates/equations applicable to such residential uses as set forth in the Institute of Transportation Engineers, Trip Generation, 10th Edition for Land Use Code = 221. In the event at Build Out, the Applicant

has constructed fewer than 379 multifamily residential units as part of the proposed development, then the Baseline Trip generation numbers applicable upon Build Out must be calculated as if 379 residential units had actually been constructed as reflected in the Operational Analysis for the Applicant prepared by Wells & Associates dated October 10, 2019.

- ii. TDM Goal. The TDM strategies will be utilized to reduce the baseline number of PM peak hour residential vehicle trips by a minimum of forty-five percent (45%).
- d. Process of Implementation. The TDM Program must be implemented as follows, provided that modifications, revisions, and supplements to the implementation process as set forth herein and as coordinated with FCDOT can be made without requiring a PCA.
  - i. The applicant must appoint and continuously employ, or cause to be employed, a TDM Program Manager ("TPM") for the Property. If not previously appointed, the TPM must 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 Property. The TPM duties may be part of other duties associated with the appointee. The TPM must notify FCDOT in writing within ten (10) days of the appointment of the TPM. Thereafter the TPM must do the same within ten (10) days of any change in such appointment.
  - ii. The TPM must prepare and submit to FCDOT an initial TDM Work Plan ("TDMWP") and annual budget (the "Annual Budget") no later than 180 days after issuance of the first building permit for the new multifamily building on the Property. Every calendar year after the first issuance of RUP, and no later than May 15, the TPM must submit an annual report (the "Annual Report"), based on a report template provided by FCDOT, which may revise the Annual Budget in order to incorporate any new construction on the Property. The Annual Report and Annual Budget must be reviewed by FCDOT. If FCDOT has not responded with any comments within sixty (60) days after submission, then the Annual Report and Annual Budget will be deemed approved and the program elements will be implemented. If FCDOT responds with comments on the Annual Report and Annual 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 must submit such revisions to the TDMWP and/or Annual Budget discussed and agreed to with FCDOT and begin implementation of the approved program and fund the approved Annual Budget.
  - iii. The TPM must 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 approval of the TDMWP and Annual Budget. All interest earned on the principal will remain in the TDM Account and must be used by the TPM for TDM purposes on the Property. Funding of the TDM Account must be in accordance with the budget for the TDM Program elements to be implemented in a year's TDMWP. In no event will the Annual Budget exceed \$60,000.00 (this amount will be adjusted annually from the date of rezoning approval for the Property (the "Base Year")) and will be adjusted on each anniversary thereafter of the Base Year in accordance with these Proffers. The TPM must provide written documentation to FCDOT demonstrating the establishment of the TDM Account within ten (10) days of its establishment. The TDM Account must be replenished annually thereafter following the establishment of each year's Annual Budget. The TDM Account will be managed by the TPM.

- iv. At the same time the TPM creates and funds the TDM Account, the TPM must establish a separate interest bearing account (referred to as the "TDM Remedy Fund") with a bank or other financial institution qualified to do business in Virginia. Funding of the TDM Remedy Fund must be made one time on a building by building basis at the rate of \$0.10 per gross square foot of new residential uses on the Property. Funding must be provided by the Applicant, or its successors or assigns as applicable, prior to the issuance of the first RUP for the new building. This amount will be adjusted annually from the date of rezoning approval of the Property (the "Base Year") and will be adjusted on each anniversary thereafter of the Base Year as permitted by VA. Code Ann. Section 15.2-2303.3. Funds from the TDM Remedy Fund may be drawn upon only for purposes of immediate need for TDM funding and may be drawn on prior to any Annual Budget adjustments as may be required.
- v. The "TDM Incentive Fund" is an account into which the Applicant, or its successors or assigns as applicable, through the TPM, will deposit contributions to fund a multimodal incentive program for initial purchasers/lessees. Such contributions must be made one time on a building by building basis at the rate of \$0.02 per gross square foot of new residential uses to be constructed on the Property and provided prior to the issuance of the first RUP for the new building. In addition to providing transit incentives, such contributions may also be used for enhancing/providing multimodal facilities within and proximate to the Property.
- vi. The TPM must verify that the proffered trip reduction goals are being met through the completion of Person Surveys, Vehicular Traffic Counts of residential uses, and/or other such methods as may be reviewed and approved by FCDOT. The results of such Person Surveys and Vehicular Traffic Counts must be provided to FCDOT as part of the Annual Report.

Person Surveys and Vehicular Traffic Counts must be conducted for the Property beginning one year following issuance of the final RUP for the new building to be constructed on the Property. Person Surveys must be conducted every three (3) years and Vehicular Traffic Counts must be collected annually until the results of three consecutive annual traffic counts conducted upon Build Out show that the applicable trip reduction goals for the Property have been met. Any time during which Person Survey response rates do not reach 20%, FCDOT may request additional surveys be conducted the following year. At such time and notwithstanding anything in these Proffers to the contrary, Person Surveys and Vehicular Traffic Counts must 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 such.

- e. Remedies. If the Maximum Trips After Reduction for the Subject Property is exceeded as evidenced by the Vehicular Traffic Counts outlined above, then the TPM must meet and coordinate with FCDOT to address, develop, and implement such remedial measures as may be identified in the TDM Plan and annual TDMWP.

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

<b>Maximum Trips Exceeded</b>	<b>Remedy Expenditure</b>
Up to 1%	No Remedy needed
1.1% to 3%	3% of Remedy fund
3.1% to 6%	6% of Remedy Fund
6.1% to 10%	10% of Remedy Fund
Over 10%	15% of Remedy Fund

- ii. There is no requirement to replenish the TDM Remedy Fund at any time; provided, however, that the Applicant must transfer control of any funds remaining in the Remedy Fund to any successor or assign to be used for TDM purposes.
- 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 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 must meet with FCDOT to review the TDM strategies in place and to develop modifications to the TDM Plan to address the surplus of trips.

- g. Review of Trip Reduction Goals. At any time and concurrent with remedial actions and/or the payment of penalties as outlined herein, the Applicant may request that FCDOT review the vehicle trip reduction goals established for the Property and set a revised lower goal for the Property consistent with the results of such surveys and vehicular traffic counts provided for by this Proffer. In the event a revised lower goal is established for the Property, the Maximum Trips After Reduction will be revised accordingly for the subsequent review period without the need for a PCA.
  - h. Continuing Implementation. The TPM bears sole responsibility for continuing implementation of the TDM Program and compliance with this Proffer. The TPM will continue to administer the TDM Program in the ordinary course in accordance with this Proffer including submission of Annual Reports.
  - i. Notice to Owners. All owners of the Property must be advised of the TDM Program set forth in this Proffer. The Applicant must advise all successor owners and/or developers of their funding obligations pursuant to the requirements of this Proffer prior to purchase and the requirements of the TDM Program, including the annual contribution to the TDM Program (as provided herein), must be included in all initial and subsequent purchase documents.
  - j. Enforcement. If the TPM fails to timely submit a report to FCDOT as required by this Proffer, the TPM will have sixty (60) days within which to cure such violation. If after such sixty (60) day period the TPM has not submitted the delinquent report, then the Applicant will be subject to a penalty of \$75 per day not to exceed \$27,375 for any one incident. Such penalty will be payable to Fairfax County.
11. Traffic Signal Preemption Devices. Prior to site plan approval, the Applicant must contribute \$20,000 to the Capital Project titled Traffic Light Signals – FRD Proffers in Fund 300-C30070, Public Safety Construction for installation of emergency vehicle preemption equipment on traffic signals within the Mount Vernon District as determined by the Fire and Rescue Department. The Applicant will not have any responsibility for installation or maintenance of the signal devices.

## **ENVIRONMENT**

12. Stormwater Management Facilities and Best Management Practices. Stormwater management must be provided as generally depicted on the CDP/FDP in accordance with the County Stormwater Management Ordinance and the Public Facilities Manual (“PFM”) and as approved by Land Development Services (“LDS”). The stormwater management techniques may include, but are not limited to, bioretention facilities, permeable pavers, filtered strips, and infiltration tanks. All such facilities must be located

in a manner that is in conformance with the CDP/FDP. If warranted by final engineering, minor modifications to the size, location, and configuration of the facilities may be made in connection with site plan approval; provided however, that such changes must not serve to diminish the effectiveness of any required screening and landscaping. Adequate outfall must be demonstrated in accordance with the PFM as determined by LDS. If the options listed above are not approved by LDS, a Proffered Condition Amendment or proffer interpretation will be required.

13. Landscape Plan. The CDP/FDP includes a conceptual landscape plan for the Property and detail sheets illustrating the plantings and other features to be provided. As part the first site plan submission, the Applicant must submit to the Urban Forest Management Division (“UFMD”) of the Department of Public Works and Environmental Services (“DPWES”) for review and approval a detailed landscape plan (the "Landscape Plan"), which must be generally consistent with the quality and quantity of plantings and materials shown on the CDP/FDP. Adjustments to the type and location of vegetation and the design of landscaped areas, streetscape improvements, and plantings will be permitted in consultation with the Department of Planning and Development (“DPD”) and as approved by UFMD. Native or recommended species, in accordance with the PFM, will be used in all landscaped areas. Prior to installation of any plants to meet the requirements of the approved Landscape Plan, the Applicant will coordinate a pre-installation meeting at the Property with the Applicant’s landscape contractor and UFMD staff; provided, however, that this requirement may be waived by UFMD if deemed by UFMD to be unnecessary.
14. Streetscape. Streetscape improvements and plantings must be provided as indicated on the CDP/FDP. Notwithstanding the foregoing, the Applicant reserves the right to change the locations of the various streetscape elements to accommodate final architectural design, utility locations, layout considerations, and sight distance requirements. If it is determined at site plan approval that the street tree location conflicts with sight distance requirements, the Applicant will be permitted to relocate such conflicting street trees, without the need for an administrative approval from DPD, provided that the tree canopy requirements for the Property are met.
15. Sustainable Design.
  - a. The Applicant shall include, as part of the building plan submission for the residential building to be constructed on the Property, a list of specific credits within the most current version of the U.S. Green Building Council's Leadership in Energy and Environmental Design Building Design and Construction (“LEED BD-C”) rating system at the time of the project's registration, 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. Except as otherwise provided herein for alternatives to LEED BD-C, a LEED or equivalent-accredited professional (the "LEED-AP") who is also a professional engineer or architect or is a third party LEED consultant must 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 BD-C certification of the building.

- b. The Applicant must designate the Chief of the Environment and Development Review Branch ("EDRB") as a team member in the USGBC's LEED Online system. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.
- c. Prior to the issuance of a building permit for the building to be constructed, the Applicant must post a "green building escrow" in the form of cash, bond, or a letter(s) of credit from a financial institution acceptable to LDS as defined in the PFM, in the amount of \$2.00/square foot of approved GFA, as shown on the site plan. This green building escrow will be in addition to and separate from other bond requirements and must be released upon demonstration of attainment of LEED BD-C certification, by the USGBC, under the project's registered version of the LEED BD-C rating system or other LEED rating system determined, by the USGBC, to be applicable to each building. The submission to EDRB of documentation from the USGBC that each building has attained LEED BD-C certification will be sufficient to satisfy this commitment.
- d. At the time LEED BD-C certification is demonstrated to EDRB, the green building escrow must be released to the Applicant.
  - i. If the Applicant provides to EDRB, within three (3) years of issuance of the final RUP for the building, documentation demonstrating that LEED BD-C certification for the building has not been attained, but that the building has been determined by the USGBC to fall within three (3) points or less of attainment of LEED BD-C certification or the equivalent, then 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.
  - ii. If the Applicant fails to provide, within three (3) years of issuance of the final RUP for the building, documentation to EDRB demonstrating attainment of LEED BD-C certification or demonstrating that the building has fallen short of LEED BD-C certification by greater than three (3) points or the equivalent, 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.
  - iii. If the Applicant provides documentation from the USGBC demonstrating, to the satisfaction of EDRB, that USGBC completion of the review of the

LEED BD-C certification application has been delayed through no fault of the Applicant, the Applicant's contractors or subcontractors, the proffered time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds will be made to the Applicant or to the County during the extension.

- e. As an alternative to the actions outlined in the Paragraphs a, c, and d above, the Applicant may select, subject to EDRB approval, an alternate residential rating system such as LEED-Homes Multi-Family, Earth Craft, or the 2015 National Green Building Standard ("NGBS") Multifamily Residential that may be implemented without an escrow. If one of the alternate residential rating systems listed herein is selected, the Applicant must note the selected system and provide a completed checklist of the anticipated options to be pursued for the specified rating system at the time of building plan review. The Applicant must demonstrate attainment of the selected certification from a rater recognized through the selected program prior to the issuance of the final RUP for the building. In the event certification is dependent on the post occupancy operation of the building, the Applicant must demonstrate attainment of the selected certification prior to final bond release.
16. Invasive Species Management Plan. Forested areas, if any, containing plant species that are known to be invasive in quantities that threaten the long term health and survival of the existing vegetation present shall be the subject of an invasive plant species management plan in order for the area to be awarded full 10-year canopy credit. At the time of site plan submission the applicant must provide a management plan for review and approval by UFMD specifying the common and scientific name of invasive species proposed for management, the target area for management efforts, methods of control and disposal of invasive plants, timing of treatments and monitoring, duration of the management program, and potential reforestation as needed.
17. Soil Remediation. In planting areas that, in the Property's preconstruction condition, contain construction debris, rubble, asphalt, or concrete or that are compacted and unsuitable for the establishment and long-term survival of landscape plants, the Applicant will provide soil remediation to satisfy cultural requirements for trees, shrubs, and groundcovers specified on the Landscape Plan. Additionally, the Applicant will provide a subsoiling procedure within the proposed planting areas, such as the Soil Profile Rebuilding Specification by Susan Day. The subsoiling procedure will be submitted for review and approval by UFMD staff concurrent with the Landscape Plan and will include at least the following elements: (i) the removal of debris and sub-base materials; (ii) the decompaction of the soil to an appropriate rooting depth for trees; (iii) the incorporation of organic matter into the existing soil profile; (iv) the addition of organic matter to the soil surface; and (v) the avoidance, to the extent reasonable feasible, of construction activities on planting areas in order to preclude additional compaction.

18. Trees.

- a. Tree Inventory and Condition Analysis. The Applicant must submit a Tree Inventory and Condition Analysis as part of the first and all subsequent site plan submissions. The Tree Inventory and Condition Analysis must be prepared by a Certified Arborist or Registered Consulting Arborist, and must include elements of PFM 12-0507 deemed appropriate to the project site as determined by UFMD.
- b. Tree Preservation Plan. The Applicant must submit a Tree Preservation Plan and Narrative as part of the first and all subsequent site plan submissions. The Tree Preservation Plan and Narrative must be prepared by a Certified Arborist or Registered Consulting Arborist, and must include elements of PFM 12-0509 deemed appropriate to the project site as determined by UFMD.
- c. Project Arborist/Pre-construction Meeting. Prior to the pre-construction meeting the Applicant shall have the approved limits of clearing and grading flagged with a continuous line of flagging. The Applicant must retain the services of a Certified Arborist or Registered Consulting Arborist ("Project Arborist") to attend the pre-construction meeting to review the limits of clearing and grading with an UFMD representative to determine where adjustments to the clearing limits can be made to increase the area of the tree preservation and/or to increase the survivability of trees at the limits of clearing and grading. Such adjustments will be recorded by the Project Arborist and tree protection fencing must be implemented under the Project Arborist's supervision based on these adjustments.
- d. Tree Protection Fencing. The Applicant must provide appropriate tree protection devices, based on site conditions and proposed construction activities as reviewed and approved by UFMD. Tree protection fencing will consist of 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 super silt fence.
- e. Tree Preservation Measures. Tree preservation measures must be clearly identified, labeled, and detailed on the Erosion and Sediment Control Plan sheets and Tree Preservation Plan. Tree preservation measures may include, but are not limited to, the following: root pruning, crown pruning, mulching, watering, etc. Specifications must be provided on the plan detailing how preservation measures will be implemented. Tree preservation activities must be completed during implementation of Phase 1 of the Erosion and Sediment Control Plan.
- f. Site Monitoring. The Applicant's Project Arborist must be present on site during implementation of the Phase 1 Erosion and Sediment Control Plan and monitor any construction activities conducted within or adjacent to areas of trees to be preserved. Construction activities include, but may not be limited to clearing, root pruning, tree protection fence installation, vegetation/tree removal, and demolition activities. During implementation of Phase 2 Erosion and Sediment Control Plan, the Project Arborist must visit the site on a regular basis to continue

monitoring tree preservation measures and ensure that all activities are conducted as identified in the Tree Preservation Plan and approved by UFMD. Written reports must be submitted to UFMD and the SDID site inspector detailing site visits. A monitoring schedule and Project Arborist reports must be described and detailed in the Tree Preservation Plan.

- g. Landscape Planting Pre-Installation Meeting. Prior to installation of any plants to meet the requirements of the approved landscape planting plan, the contractor/developer must coordinate a pre-installation meeting on the site with the landscape contractor, UFMD staff, and any additional appropriate parties. Any proposed changes to planting locations, tree/shrub planting sizes, and species substitutions shown on the approved plan must be reviewed and must be approved by UFMD staff prior to planting. The installation of plants not approved by UFMD may require the submission of a revision to the landscape plan or removal and replacement with approved trees/shrubs prior to bond release.

## **CONTRIBUTIONS**

- 19. Parks and Recreation. The Applicant must provide recreational facilities to serve the Property as shown on the CDP/FDP, in accordance with Section 6-409(2) of the Zoning Ordinance. At the time of site plan review, the Applicant must demonstrate that the value of any proposed recreational amenities is equivalent to a minimum of \$1,900.00 per new residential unit as shown on the approved final site plan. In the event it is demonstrated that the proposed facilities do not have sufficient value, the Applicant must contribute funds in an amount sufficient to achieve the overall proffered amount of \$1,900 per residential unit to FCPA for off-site recreational facilities in the Mount Vernon District.
- 20. Public Schools Contribution. Prior to the issuance of the first RUP for the new multifamily residential building, the Applicant must contribute \$12,262.00 per expected new student to the Board of Supervisors for transfer to Fairfax County Public Schools to be used for capital improvements at those schools within the “pyramid” serving the Property. The number of students generated will be determined at site plan using the following students per dwelling units ratios:

	<b>Elementary School</b>	<b>Middle School</b>	<b>High School</b>
Multifamily	.062	.019	.031

Such contributions must be adjusted on a pro rata basis if the number of units actually built is less than the maximum allowed under this rezoning. The Applicant must notify FCPS when a site plan is filed for the project.

- 21. Workforce Dwelling Units (“WDUs”).

- a. The Applicant must provide WDUs on the Property in accordance with the Board of Supervisors' Workforce Dwelling Unit Administrative Policy Guidelines dated October 15, 2007. The bedroom types (efficiency, 1-bedroom, etc.) of the WDUs

must be proportional and have a similar mix in the number of bedrooms as the market rate units being constructed on the Property.

- b. The final number of WDUs will be determined at final build out utilizing the density bonus formula in the Guidelines for Provision of Workforce Housing, Guideline 4, within Appendix 1 of the Comprehensive Plan's Policy Plan for Housing. However, in no case will the number of WDUs be less than 24 units. The WDUs will be provided within two (2) evenly distributed income tiers of eighty percent (80%) of the Area Median Income for the Washington Standard Metropolitan Statistical Area ("AMI") and one hundred percent (100%) of AMI.

## **OTHER**

- 22. Zoning Administrator Consideration. Notwithstanding the foregoing, upon demonstration that despite diligent efforts or due to factors beyond the Applicant's control proffered improvements such as, but not limited to, transportation, publicly accessible park areas, bike lanes and offsite easements have been delayed (due to, among other things, an inability to secure necessary permission for utility relocations, VDOT approvals, necessary easements, and/or site plan approval, etc.) beyond the timeframes specified, the Zoning Administrator may agree to a later date for completion of these proffered improvement(s).
- 23. Escalation in Contribution Amounts. All proffers specifying contribution amounts or budgets for operational expenses will escalate on annual basis from the base year of 2021 and change effective each January 1 thereafter, based on changes in the Consumer Price Index for all urban consumers (not seasonally adjusted) ("CPI-U"), both as permitted by Virginia State Code Section 15.2-2303.3.
- 24. Successors and Assigns. These Proffers will be binding upon and inure to the benefit of the Applicant and any of the Applicant's successors and/or assigns.
- 25. 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 but one and the same instrument.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

**THE FOREGOING PROFFERS ARE SEEN AND AGREED TO:**

**OWNER**

Huntington Metro LLC, a Virginia limited liability company

By: \_\_\_\_\_  
Name:  
Title:

**APPLICANT**

Aventon Holdings I, LLC, a North Carolina limited liability company

By: \_\_\_\_\_  
Name:  
Title: