

COMPREHENSIVE DEVELOPMENT AGREEMENT

THIS COMPREHENSIVE DEVELOPMENT AGREEMENT (this “Agreement”), is made and entered into this ____ day of _____, 2020 (the “Effective Date”), by and between the **CITY OF MANASSAS PARK, VIRGINIA**, a body politic and corporate (the “City”), and the **VILLAGE AT MANASSAS PARK, LLC**, a Virginia limited liability company (the “Developer”).

RECITALS

R-1. The City wishes to have a new City Hall of approximately 51,000 square feet constructed to house the City’s governmental and administrative offices and its public library (the “New City Hall”), together with public parking and one or more public streets.

R-2. On November 19, 2019, the Developer submitted an unsolicited proposal to, among other things, construct the New City Hall (the “Proposal”) pursuant to Virginia’s Public-Private Education Facilities and Infrastructure Act of 2002 (Va. Code § 56-575.1 *et seq.*) (the “PPEA”) and the City’s adopted Combined Guidelines for Projects Proposed Pursuant to the Public-Private Transportation Act of 1995 and the Public-Private Education Facilities and Infrastructure Act of 2002 (the “Guidelines”), which Proposal was accepted by the City on November 20, 2019 and advertised on both the Virginia Department of General Services’ central electronic procurement website and the City’s website for a period of forty-five days in accordance with the PPEA and the Guidelines. No competing proposals that complied with the Guidelines were received during the 45-day advertisement period.

R-3. The City is the owner of certain real property situate in Manassas Park, Virginia, as follows:

- Lot 1B, Resubdivision Plat Lot 1, CONNER CENTER (“Lot 1B”), as platted and shown on the plat recorded in Map Drawer 80, at Page 69, among the land records of Prince William County, Virginia (the “Land Records”), with tax map number 24-3-1B, having acquired Lot 1B by deed recorded as Instrument No. 201111180095681 among the Land Records; and
- Lot 2, CONNER CENTER, Blooms Court (“Lot 2”), as platted and shown on the plat recorded in Map Drawer 53, at Page 59, among the Land Records, with tax map number 24-3-2, having acquired Lot 2 by deed recorded in Deed Book 1577, at Page 1726, among the Land Records; and
- Lot 3-1, CONNER CENTER, Blooms Court (“Lot 3-1”), as platted and shown on the plat recorded as Instrument No. 202004150029573 among the Land Records, with tax map number 24-3-3, having acquired Lot 3-1 by deed recorded in Deed Book 1577, at Page 1726, among the Land Records; and
- Lot 4-1, CONNER CENTER, Blooms Court (“Lot 4-1”), as platted and shown on the plat recorded as Instrument No. 202004150029573 among the Land Records, with tax

map number 25-1-4, having acquired Lot 4-1 by deeds recorded as Instrument No. 200310090186682 and as Instrument No. 202004150029572 among the Land Records.

R-4. The City and GH City Center LLC (“GH City Center”), as successor in interest to Park Center LLC, are parties to that certain Deed of Ground Lease and Parking Agreement dated January 5, 2007 (the “Ground Lease”), which Ground Lease encumbers a portion of Lot 2 with a ground lease and interim parking area, the terms of which Ground Lease being generally described in a Memorandum of Ground Lease recorded as Instrument No. 200701080003488 among the land records, with the boundaries of the ground lease and interim parking area being shown on the plat attached thereto titled “PLAT SHOWING LEASE AREA INTERIM PARKING AREA EXHIBIT “C””.

R-5. The Developer is the owner or contract purchaser of certain real property situate in Manassas Park, Virginia, as follows:

- Lots 5A, 5B, and 5C, CONNER CENTER, Blooms Court (together, the “Leatherbury Tract”), as platted and shown on the plat recorded in Map Drawer 132, at Page 91, among the Land Records, with tax map numbers 24-3-5A, 24-3-5B, and 24-3-5C, respectively; and
- Lot 4, CONNER CENTER (“Lot 4”), as platted and shown on the plat attached to a deed recorded in Deed Book 1170, at Page 75, among the Land Records, with tax map number 24-A-4; and
- Lot 5, CONNER CENTER (“Lot 5”), as platted and shown on the plat recorded in Map Drawer 48, at Page 54, among the Land Records, with tax map number 24-A-5.

R-6. The Developer has proposed, among other things, to construct the New City Hall on Lot 1B and a portion of an adjacent parcel of land known as Lot 1A, Resubdivision Plat Lot 1, CONNER CENTER (“Lot 1A”), as platted and shown on the plat recorded in Map Drawer 80, at Page 69, among the Land Records, with tax map number 24-3-1A, and to lease the New City Hall building (“Building A”) to the City under a long term lease with an option to purchase, as a means of financing the construction thereof.

R-7. Lot 1B, Lot 2, Lot 3-1, Lot 4-1, the Leatherbury Tract, Lot 4, and Lot 5 are subject to that certain Declaration of Protective Covenants and Restrictions recorded in Deed Book 1153, at Page 626, as corrected in Deed Book 1167, at Page 150, and as amended in Deed Book 1287, at Page 1099, all among the Land Records (the “Declaration”).

R-8. The Developer has also proposed to create, with the cooperation of the City, a “City Center” by constructing, among other things, and in addition to the New City Hall, a building with an entertainment anchor use of approximately 42,000 square feet, 2,500 square feet of in-line ground floor retail space, and 38,000 square feet for commercial office use (“Building B”); a stand-alone commercial/retail building of approximately 6,000 square feet (“Building C”); and a residential component containing two-over-two stacked townhomes (the “Two-over-Twos”). Such development will be done in phases, with development responsibilities allocated between the parties as set forth herein, all to the end that the resulting project creates a walkable, livable center

for the City of Manassas Park, at a reasonable cost to the City, with protections for the City and its residents, and upon equitable terms for both parties.

R-9. Separately from, but related to, the matters that are provided for herein, the Virginia Railway Express (the “VRE”), a joint project of the Northern Virginia Transportation Commission and the Potomac and Rappahannock Transportation Commission, proposes to construct a new 550 space structured parking facility (the “VRE Garage”) to service the existing Manassas Park VRE Station. The VRE anticipates initiation of design and construction of the VRE Garage not later than October 2020 and completion thereof in 2022. The City will negotiate an agreement with VRE that permits public use of the VRE Garage to support entertainment and retail uses of the Project during evenings and weekends while not being used by VRE patrons. In addition, the City will seek permission from VRE to permit the construction of a lower level of the VRE Garage that will contain the maximum number of parking spaces structurally permitted, but in no case less than 91 parking spaces, to exclusively support City parking uses for the Project.

R-10. The Developer has proposed to assign the purchase and sale agreement for the Leatherbury Tract (the “Leatherbury Contract”) to the City—from which Lot 5-1 (as defined below) would be created for construction of the VRE Garage—together with (i) a cash escrow deposited with an escrow agent acceptable to the City, or (ii) an irrevocable letter of credit with a financial institution acceptable to the City and in a form approved by the City Attorney, either of which could be drawn by the City as described herein, in return for which the City would convey Lot 4-2 (as defined below) to the Developer as described herein. In addition, in furtherance of the Project, the City would convey portions of Lot 2 and Lot 3-2 (as defined below) to the Developer as partial consideration for the construction of the New City Hall as described herein if the Phases 1B and 2 Rezoning (as defined below) is approved. The initial transfers of the Leatherbury Tract and Lot 4-2 are expected to take place in the Summer of 2020 in order to support the required timing of the VRE Garage construction, such transfer being subject to the successful City-initiated rezoning of Phase 1A of the Project, as shown on the Master Plan (as defined in the following recital).

R-11. The elements outlined above for Building A, Building B, Building C, the Two-over-Twos, and the associated parking (including the lower level parking in the VRE Garage) and public and private streets are collectively referred to as the “Project”, as those elements are more particularly described herein and graphically depicted on the Master Plan (the “Master Plan”), which is attached to this Agreement as **Exhibit A** and incorporated herein by reference. The Master Plan includes conceptual elevations of Building A, Building B, Building C, and the proposed Two-over-Twos, and will be refined by the parties as further set forth herein. The Project will be constructed in substantial conformance with the Master Plan.

R-12. The City and the Developer now desire to (1) enter into this Comprehensive Development Agreement pursuant to the provisions of the PPEA and consistent with the Guidelines to set forth the terms and conditions under which the Developer and the City will (i) provide for the pre-development activities of both the Developer and the City as defined herein; (ii) define the development that is to occur in Phases 1A, 1B and 2 of the Project (each a “Phase”); (iii) provide for the allocation of responsibilities for development activities in each Phase; (iv) provide for the allocation of costs between the parties for the pre-development activities and later Phases; (v) provide for the exercise of the power of eminent domain by the City to the extent it is

required; and (f) provide for the financing of pre-development, and development costs and expenses; and (2) to memorialize their agreement on such other necessary matters associated with the foregoing.

R-13. In view of the unique circumstances created by the novel coronavirus COVID-19, which emerged into a worldwide pandemic following the Developer's submission of the Proposal, and the City's initiation of its consideration, the parties have determined that it is necessary to provide for contingencies for the development of the Project that accommodate market and practical uncertainties that may be elected by mutual agreement.

R-14. This Agreement is intended by the parties to be a base agreement between the Developer and the City, and may be amended by the mutual written consent of the parties to accommodate the needs of the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the premises set forth in the Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby conclusively acknowledged, the parties hereby agree as follows:

I. GENERAL PROVISIONS

- A. **Recitals.** The foregoing recitals are hereby incorporated into this Agreement as if fully set forth herein in their entirety.
- B. **Effective Date.** This Agreement will become effective upon the Effective Date as set forth above, and will continue until terminated as provided herein.
- C. **Appointment.** During the term of this Agreement with respect to the Project, and through the commencement of the operation of the Project once construction has been completed, meaning that all inspections have been performed, the construction has passed inspection, and either (i) for a building or residential unit, a certificate of occupancy has been issued, or (ii) for a public improvement, the improvement has been accepted by the City ("Completion", "Completed", or "Complete"), both the City and the Developer intend to approach the Project and their relationship with cooperation and in good faith. This will include efforts to achieve shared savings and accomplishment of performance standards. The City hereby appoints the Developer as the developer of the Project subject to and in accordance with the terms of this Agreement, and the Developer accepts such appointment.
- D. **Preparation and Delivery of Plans by the Developer and the City.** The Developer and the City will work together and collaborate in good faith in developing preliminary plans for the development and construction of the Project in accordance with the Exhibits attached to and within the timeframes set forth in this Agreement.

E. Initial Design.

1. As soon as possible following the execution of this Agreement, the Developer and the City will convene a meeting with the Development Team Members (as defined below) and the City personnel who will be principally engaged in the Project for an initial meeting to discuss the assignment of tasks and deadlines, to discuss the design requirements for the New City Hall in accordance with the criteria set forth below for review and approval by the City, and for such other purposes as may be appropriate for the Commencement (as defined in the following sentence) of the Project. For purposes of this Agreement, “Commence” and “Commencement” mean the Developer, or a builder with which it has contracted (a “Builder”) has staged land disturbing equipment onsite and has begun clearing and grading of the site pursuant to an approved site plan and issued permit and, for Building B, the foundation has been poured.
2. Davis Carter Scott Ltd. will, during the initial Phase of the project, provide the following services:
 - a. Detailed master planning for the assembled properties essential to the Project; and
 - b. Design and programmatic planning services for the New City Hall, and any other civic spaces consistent herewith; and
 - c. Coordinate with Land Design Consultants, Inc. the overall City Center design in conjunction with the VRE Garage; and
 - d. Initiate preliminary plan and design of the additional retail and commercial facilities for the Project.
3. Land Design Consultants, Inc. will, during the initial Phase of the Project, provide the following services:
 - a. Create ALTA and topographic surveys and assemble all relevant topographic information; and
 - b. Refine the Master Plan and other necessary exhibits, in accordance with the requirements of the Zoning Ordinance, including the plan for road infrastructure improvements, including building locations and parking tabulations in accordance with the City’s zoning ordinance (City Code Chapter 31) (the “Zoning Ordinance”); and
 - c. Coordinate all necessary application materials, permits, and approvals with the City and other relevant permitting agencies in coordination with Walsh, Colucci, Lubeley & Walsh, P.C.; and
 - d. Provide civil engineering services as required during construction of the Project.

4. Walsh, Colucci, Lubeley & Walsh, P.C. will, during the initial Phase of the Project, provide the following services:
 - a. Prepare and submit appropriate applications and supporting materials necessary to file and pursue application for the rezoning of the properties that constitute the Project as further set out herein, together with any conditional use permit(s) and/or any waiver(s) that might be required, in coordination with the Developer, Davis Carter Scott Ltd., and Land Design Consultants, Inc., and in consultation with the City; and
 - b. In consultation and cooperation with the City Attorney, prepare such amendments to the Agreement as may be deemed necessary by the Developer and the City; and
 - c. Provide such continuing advice and counsel to the Developer as the Developer may require.

II. DEVELOPMENT WITHIN THE CITY CENTER

- A. **Principal Development Plan A.** The principal development plan for the Project in the City Center Redevelopment District is set forth below in Sections II.B. through II.F. (“Principal Development Plan A”).
- B. **Rezoning of Land for the City Center.** The parties recognize that the property necessary for the construction of the Project is not presently zoned for the purposes of this Agreement.¹ In order to ensure the proper zoning of the parcels required, the parties agree as follows:
 1. Notwithstanding the terms of this Agreement, including in this Section, the Developer acknowledges that the City cannot contract away its legislative powers, and retains its full discretionary authority with respect to the vacation and abandonment of public right-of-way and recorded plats, the conveyance of publicly-owned real property and acquisition of real property, and approval or denial of any rezoning required for the Project.
 2. **Phase 1A Rezoning.** Promptly following the approval of this Agreement and the Phase 1A Rezoning, but not later than the termination of any appeal period following the approval of that Rezoning:
 - a. The Developer will assign to the City the Leatherbury Contract for the parcels of land comprising the Leatherbury Tract (8453 Park Center Court,

¹ The parcels of land that will constitute the Project upon completion are: Lot 1A, and what are shown on the Boundary Line Adjustment Plat as Lot 4-2, Lot 5-1, and Lot 6 in Phase 1A; and Lot 2, Lot 4, Lot 5, and what is shown on the Boundary Line Adjustment Plat as Lot 3-2 in Phases 1B and 2.

8455 Park Center Court, and 8457 Park Center Court), and pay to the City a purchase price of Eight Million Seven Hundred Thousand and No/100 Dollars (\$8,700,000.00) for Lot 4-2, which represents a land value of Fifty Thousand and No/100s Dollars (\$50,000.00) per Two-over-Two residential unit for each of the 174 such residential units that may be approved for and developed on Lot 4-2 if zoned to the MU-D Downtown Mixed-Use District.

- b. The initial Five Million and No/100s (\$5,000,000.00) of the purchase price for Lot 4-2, plus the anticipated closing costs to the City for the Leatherbury Tract, will be paid in the form of a cash escrow deposited in an interest bearing account with an escrow agent acceptable to the City, or an irrevocable letter of credit with a financial institution acceptable to the City and in a form approved by the City Attorney (the cash escrow plus interest and the letter of credit are collectively referred to herein as the “Phase 1A Initial Deposit”), which Phase 1A Initial Deposit will be drawn on by the City to purchase the Leatherbury Tract for the price and at the time set forth in the Leatherbury Contract.
- c. The remaining Three Million Seven Hundred Thousand and No/100s Dollars (\$3,700,000.00) of the purchase price for Lot 4-2 will be in the form of a cash escrow deposited in an interest bearing account with an escrow agent acceptable to the City, or an irrevocable letter of credit with a financial institution acceptable to the City and in a form approved by the City Attorney, upon the successful removal of the Declaration (the cash escrow plus interest and the letter of credit are collectively referred to herein as the “Phase 1A Second Deposit”), which Phase 1A Second Deposit will be drawn down by the City as needed for the reimbursement of expenses as outlined in Section V.G. below, with the remainder of the Phase 1A Second Deposit after such reimbursement to be drawn on by the City at its discretion as part of the consideration for this Agreement. In the event that the Developer cannot achieve a yield of 174 Two-over-Two residential units as provided herein for reasons related to engineering of Lot 4-2, the Developer will be entitled to a per residential unit reimbursement of Fifty Thousand and No/100s (\$50,000.00), unless such units can be successfully constructed in Phase 2 of the Project.
- d. The City will, in order of occurrence:
 - (1) Initiate the vacation and abandonment of portions of the Park Center Court cul-de-sac to create five new parcels to be known as “AREA #1”, “AREA #1A”, “AREA #2”, “AREA #2A”, and “AREA #2B”, as shown on a plat in substantially the form of the Vacation Plat attached hereto as **Exhibit B-1** and incorporated herein by reference, which new parcels will become part of the abutting parcels of land by operation of law once vacated and abandoned;

- (2) Initiate on its own motion the rezoning of the following Phase 1A properties from the I-1 Industrial District to the MU-D Downtown Mixed-Use District in order to facilitate the construction of the VRE Garage and the construction of necessary public infrastructure to service the VRE Garage and the remainder of Phase 1A in accordance with the Master Plan: Lot 1B, the Leatherbury Tract, Lot 4-1, AREA #1A, AREA #2, AREA #2A, and AREA #2B (the “Phase 1A Rezoning”);
 - (3) Acquire the Leatherbury Tract for the purchase price set forth in the Leatherbury Contract using the Phase 1A Deposit;
 - (4) If the vacation and abandonment of portions of the Park Center Court cul-de-sac and the Phase 1A Rezoning are approved by the Governing Body, execute a deed of boundary line adjustment in substantially the form attached hereto as **Exhibit B-2** and incorporated herein by reference (the “Deed of Boundary Line Adjustment”) that will adjust the boundary lines between Lot 1B, Lot 3-1, Lot 4-1, Lot 5A, Lot 5B, Lot 5C, AREA #1, AREA #1A, AREA #2, AREA #2A, and AREA #2B, thereby creating and establishing four new parcels to be known as “Lot 3-2”, “Lot 4-2”, “Lot 5-1”, and “Lot 6”, as shown on a plat in substantially the form of the boundary line adjustment plat attached hereto as **Exhibit B-3** and incorporated herein by reference; and
 - (5) If the Phase 1A Rezoning is approved, convey title to Lot 4-2 to the Developer, as provided for herein.
- e. Concurrently with the Phase 1A Rezoning, the Developer may, at its own risk, submit applications for final site and subdivision plan and plat approvals for review by the City, subject to the understanding that such plans and plats cannot be finally approved unless and until the Deed of Boundary Line Adjustment has been executed and the Phase 1A Rezoning has been approved by the Governing Body acting in its legislative capacity. Any development plans that are submitted for work in Phase 1A of the Project will substantially conform to the Master Plan, subject to modifications approved by the Governing Body as part of the Phases 1B and 2 Rezoning (as defined below) or other subsequent rezonings for the Project.
- f. In the event the Phase 1A Rezoning is not approved, this Agreement will immediately become null and void, except to the extent otherwise provided herein.

C. Phase 1A of the Project.

1. Pre-construction and construction activities related to the VRE Garage.
 - a. If the Deed of Boundary Line Adjustment is executed and the Phase 1A Rezoning is approved by the Governing Body, the City will close on (i) the purchase of the Leatherbury Tract using the Phase 1A Initial Deposit to pay the purchase price set forth in the Leatherbury Contract, and (ii) complete the conveyance of Lot 4-2 to the Developer as otherwise provided herein. The form of the deed conveying Lot 4-2 to the Developer must be approved by the City Attorney.
 - b. The Developer may elect to place the executed deed for Lot 4-2 into escrow for any period during which an appeal of the approval of the Phase 1A Rezoning may be filed with the Circuit Court of Prince William County. Upon the expiration of such appeal period, if an appeal has not been filed, title to Lot 4-2 will be conveyed to the Developer.
 - c. The City will convey or lease Lot 5-1 to the VRE for the construction of the VRE Garage and access thereto at such time as the City and the VRE mutually agree.
 - d. The City will acquire Lot 1A, through either arms-length negotiations or the exercise of the power of eminent domain, if necessary, as provided herein.
 - e. In accordance with the Interim Budget, which is attached hereto as **Exhibit C** and incorporated herein by reference, the Developer will demolish all structures on Lot 5-1 down to the existing grade for construction of the VRE Garage and will clear Lot 1A and Lot 6 for construction of the New City Hall, the associated public parking, and the stormwater management facilities and utilities to be constructed and installed on Lots 1A and 6.
 - f. If the VRE elects not to construct the VRE Garage, then this Agreement will immediately become voidable by the Developer or the City, except (i) that the City will retain ownership of the Leatherbury Tract and the Developer will retain ownership to Lot 4-2 if the closings for those parcels have already occurred, and (ii) to the extent otherwise provided herein.
2. New City Hall/Building A.
 - a. Promptly following the execution of this Agreement, the Developer will initiate planning with the City to construct a three story Building A of approximately 51,000 square feet in the location generally depicted on the Master Plan, which will include:
 - (1) Floor 1 to contain 17,000 gross square feet, consisting of approximately 6,306 square feet of retail uses; 2,046 square feet to

house the City's library; 4,045 square feet for the City's Registrar; 1,030 for loading dock area; and 3,573 square feet of core area, connected seamless to Floor 2;

- (2) Floor 2 to contain 17,000 gross square feet, consisting of approximately 5,055 square feet library space, 4,857 square feet of City administration office space; 3,927 square feet for the Governing Body Chambers; and 3,161 square feet of core area;
- (3) Floor 3 to contain 17,000 gross square feet, consisting of approximately 7,950 square feet to house the School Division's central office; 1,990 square feet for a customer service center; 3,208 square feet for the Treasurer and Commissioner of the Revenue; 1,119 square feet for computer server space and storage space; and 2,733 square feet of core area;
- (4) A City owned 36,000 square foot public open area as shown on the Master Plan, which will include a public plaza area (the "Public Plaza"), road, and entrance to the community, with amenities that will include, but not be limited to, a splash pad and movable outdoor seating and dining tables, and may include one or more video screens for public viewing;² and
- (5) Additional public open area with outdoor dining space as shown on the Master Plan to be used by Building A and Building C.

- b. If the Phases 1B and 2 Rezoning (defined below) has been approved, then following (i) closing on a financing which provides for the proceeds sufficient to construct the New City Hall, (ii) approval by the City of a site plan for the same, and (iii) the award by the Developer of a construction contract for the construction of the New City Hall, the City and the Developer will enter into a 30-year lease for the New City Hall with an option to purchase that will incorporate the material terms included in the term sheets attached hereto as **Exhibit D** and incorporated herein by reference (the "City Lease"). The City Lease will specify that rent payments under 30-year term will not commence, and the City's first lease payment will become due no earlier than the date that the New City Hall has been Completed. The New City Hall will be and remain under City control during the 30-year term of the City Lease.

² The parties will enter into a separate agreement as to the management of the public open area with outdoor dining space shown on the Master Plan, the sharing of common area maintenance costs for the same, the scheduling of events, and such other matters as they may determine necessary for the maintenance and management of that area, which agreement will ensure that the City has priority for use of such public open area.

- c. The design of the New City Hall will substantially conform to the City Hall Functional Narrative and its incorporated exhibits, which are attached hereto as **Exhibit E** and incorporated herein by reference.
3. The New City Hall, the public street shown as Road B on the Master Plan (“Road B”), the associated public parking, and the stormwater management facilities and utilities to be constructed and installed on Lots 1A and 6 will be Completed no later than two years following the successful closing of the necessary financing for the New City Hall. Upon Completion of the New City Hall, Road B, and such associated parking and stormwater management facilities and utilities, and the transfer of governmental operations to the New City Hall, the Developer will promptly clear Lot 2 and Lot 3-2 of the current City Hall.
4. Commercial Building C. Promptly following the execution of the Deed of Boundary Line Adjustment, the City will subdivide Lot 6 to create a pad site to be conveyed to the Developer at the cost stated in the Interim Budget, on which the Developer will construct Building C, a 6,000 square foot freestanding commercial/retail building to be owned by the Developer, in the location generally depicted on the Master Plan. The form of the deed conveying such Building C pad site to the Developer must be approved by the City Attorney.
5. Residential Development in Phase 1A. The Developer, or a Builder, may construct up to 174 Two-over-Twos with garages in Phase 1A, along with integrated street parking and open spaces, in the approximate locations depicted on the Master Plan for Phase 1A.
6. Transportation Improvements.
 - a. The Developer will redesign Park Center Court, which is shown as Road A on the Master Plan (“Road A”) in Phase 1A. Road A will extend from Manassas Drive to the New City Hall, the VRE Garage, and the Phase 1A Two-over-Two residential development in accordance with the Master Plan.
 - b. The Developer will construct a distinctive vehicular and pedestrian intersection at Manassas Drive and Park Center Court in accordance with the Master Plan.
 - c. The Developer will modify the existing traffic signal to improve pedestrian safety and vehicular turns at that intersection in accordance with the Master Plan.
 - d. The Developer will construct Road B in Phase 1A once the City has acquired title to Lot 1A. Road B will extend from Manassas Drive to the VRE Garage and from the VRE Garage to Park Center Court in accordance with the Master Plan.

- e. The Developer will construct or cause to be constructed the road shown on the Master Plan as Road D-1 in conjunction with the construction of the residential development of Phase 1A. Road D-1 will connect with Road A and will be privately-owned and maintained.

D. Phases 1B and 2 Rezoning.

1. If the Phase 1A Rezoning is approved by the City, the Developer will expeditiously prepare and submit for review, processing, and consideration by the City a rezoning application for Phases 1B and 2 of the Project to the MU-D Downtown Mixed-Use District, which will include the submission of proffers with respect to the all properties that comprise the Project, including the properties that were rezoned in the Phase 1A Rezoning, and the submission of one or more conditional use permit applications and a waiver applications to the extent necessary for the Project (the “Phases 1B and 2 Rezoning”). The proffers for the Phases 1B and 2 Rezoning will generally be in the form attached hereto as **Exhibit F** and incorporated herein by reference and will at a minimum contain the following commitments:
 - a. Each Two-over-Two residential unit, including those in Phase 1A, will be sold at market rate;
 - b. A monetary contribution in the amount of Two Thousand and No/100 Dollars (\$2,000.00) will be made by the Developer to the City for each Two-over-Two residential unit (referred to in the Interim Budget as a “cash proffer”), payable upon Completion of each such residential unit; and
 - c. The Developer will re-commit to its share of the Interim Budget capital improvements in Phase 1A, with the Developer’s “contribution for public infrastructure share” shown in the Interim Budget provided prior to Completion of Building A.
2. The Phase 1B and 2 Rezoning will include detailed design guidelines; landscaping plans, including the use of smaller trees so as not to cover retail signage and store fronts; building elevations; lot layouts, transportation plans; and such other plans and commitments as may be agreed to by the parties with respect to the Project. The overall design will provide the look and feel of a modern town center.
3. The Developer will provide, among other things, exterior lighting on buildings to improve safety, along with standard City approved City Center Streetlight fixtures.
4. All property owner association documents prepared pursuant to the Property Owners’ Association Act (Va. Code § 55.1-1800 *et seq.*), the Condominium Act (Va. Code § 55.1-1900 *et seq.*), or any other statutory authority, will contain satisfactory exterior maintenance, repair, and upkeep requirements of structures and common areas and/or common elements, with the City named as a third-party beneficiary with the ability to enforce covenants to ensure compliance. Such

property owner association documents will be submitted to the City Attorney for review and approval prior to execution.

5. The City will include a waiver for residential development within 100 feet of the Norfolk Southern railroad right-of-way as part of the Phase 1A Rezoning. In addition, if required, the Developer must secure permissions from Norfolk Southern. Noise mitigation materials must be used on dwelling units within 100 feet of the railroad right-of-way. In lieu of the 100-foot landscape buffer required by the Zoning Ordinance, the City will also include a waiver to allow for the provision of a 25-foot buffer as part of the Phase 1A Rezoning. The Developer will proffer to recommit to the waivers and other requirements in this Subsection as part of the Phases 1B and 2 Rezoning.

E. Phase 1B of the Project.

1. Commercial Building B.

- a. The Developer will work cooperatively and in good faith with the City in an effort to attract a movie theater for a full 42,000 square foot, 9 to 11 screen theater, or 4 to 6 screen hybrid theater with other entertainment uses, or, after December 31, 2024, another entertainment based business (both the movie theater and the other entertainment based business are referred to as the “Anchor Business”) in the location generally depicted on the Master Plan for Building B.
- b. Unless objected to by the Anchor Business on the ground that it prefers a standalone structure, the Developer will also construct, in addition to the space required in Building B for the Anchor Business’ operations (the “Anchor Business Space”), and within Building B the following:
 - (1) An additional 2,500 square feet of in-line ground floor retail space; and
 - (2) 38,000 square feet of upper level commercial office space, including a ground floor elevator lobby, subject to Anchor Business approval.
- c. The Developer will either lease or sell the Anchor Business Space to the Anchor Business, at the Anchor Business’ option.
- d. Any lease between the Developer and the Anchor Business for the Anchor Business Space must include the following:
 - (1) A 15-year base lease term (the “Base Lease Term”) with at least three 5-year lease extension options (each an “Option Term”);
 - (2) During the Base Lease Term and each Option Term, the Anchor Business will pay an annual triple net lease payment of One and

No/100 Dollars (\$1.00), not including the Anchor Business' pro rata share of the common area maintenance charges (the "CAM");

- (3) The Anchor Business' pro rata share of the CAM will include but will not limited to repair and maintenance of parking lots, snow removal, trash removal, janitorial and pest control services, security, landscaping, insurance, real estate taxes, center signage, common area utilities, and common area HVAC maintenance;
 - (4) The Anchor Business will pay the Developer for the construction of its pro rata share of Building B on an open book construction basis, including reasonable construction management fees, development fees, and overhead; and
 - (5) The Anchor Business will install all its improvements and equipment within Building B at its sole cost, which improvements and equipment will remain the property of the Anchor Business unless it vacates the movie theater building within the first five years of the Base Lease Term, in which case all such improvements and equipment will remain and become the property of the landlord.
- e. In coordination with Anchor Tenant, the Developer will diligently pursue financing for and commencement of construction of Building B.
- f. Any sale of the Anchor Business Space or Building B to the Anchor Business must be at the cost of construction, including reasonable construction management fees, development fees, and overhead, and will include shared maintenance responsibilities.
- g. Assuming the Phases 1B and 2 Rezoning has been approved by the City:
- (1) Once the City and the Developer have entered into the City Lease, the City will promptly subdivide Lot 2 and Lot 3-2 to create a pad site for Building B (the "Building B Pad Site") and a separate parcel on which the Phase 2 Two-over-Twos will be constructed (the "City Hall Tract Residential Parcel"), consistent with the Master Plan, both parcels to be conveyed to the Developer at the cost stated in the Interim Budget. The form of the deeds conveying the Building B Pad Site and the City Hall Tract Residential Parcel to the Developer must be approved by the City Attorney.
 - (2) Within thirty (30) days following the later to occur of (i) recordation among the Land Records of the subdivision deed and plat described in the preceding paragraph, or (ii) the effective date of such contract to lease or purchase the Anchor Business Space, the Developer and the City will close on the conveyance to the Developer of the Building B Pad Site.

entrance to the current City Hall parking lot) to Park Center Court and the VRE Garage and will provide the City the ability to close Park Center Court/Manassas Drive/Market Street for events, as well as access options to and within the site, as part of an integrated downtown transportation network that will include an Omni Ride bus stop within the Project.

F. Phase 2 of the Project.

1. Residential Development in Phase 2.
 - a. Upon demolition of the current City Hall, the Developer, or a Builder, may construct up to 140 Two-over-Twos with garages in Phase 2, along with integrated street parking and open spaces, in the approximate locations depicted on the Master Plan for Phase 2, which Two-over-Twos will be integrated into the “downtown” area of the Project and not isolated therefrom, together with any of the allowed Two-over-Twos in Phase 1A not previously constructed.
 - b. If an Anchor Business is secured prior to December 31, 2027, the Developer or a Builder may construct all of the aforesaid residential units. If an Anchor Business has not been secured by that date, however, then once the City Hall Tract Residential Parcel has been conveyed to the Developer, and subject to City approval of the necessary plans and issuance of the necessary permits, the Developer or a Builder will be permitted to construct up to seventy (70) of the Two-over-Twos in Phase 2, plus any allowed Two-over-Twos in Phase 1A not previously constructed, before Commencement of construction of Building B, and the remaining seventy (70) Phase 2 Two-over-Twos once construction of Building B has Commenced.
 - c. Seventy (70) of the aforesaid Two-over-Twos will be allocated for purposes of financing the acquisition of the City Hall Tract Residential Parcel, for which the Developer will pay to the City Three Million Five Hundred Thousand and No/100 Dollars (\$3,500,000.00), as shown on the Interim Budget, which payment will be made prior to Commencement of construction of residential units on such land and will be subject to an adjustment of Fifty Thousand and No/100 Dollars (\$50,000.00) per Two-over-Two residential unit up or down should the approved number of residential units be more or less than 140 units.
2. Transportation Phase 2. The Developer will construct or cause to be constructed the road shown on the Master Plan as Road D-2 in conjunction with the construction of the residential development in Phase 2. Road D-2 will be privately-owned and maintained.
3. Construction of Infrastructure to Support the Project. If the Phases 1B and 2 Rezoning has been approved, then in order to reduce long term costs and in recognition of the practical necessities of the Project site, the Developer will, during

the Phase 1A construction, to the extent that it will not unreasonably interfere with current City Hall operations and in coordination with the City (including necessary site plan approval and issuance of building permits), be provided easements for and will construct streets, sewer and water lines, stormwater management facilities, electrical and other utility services necessary to serve the buildings to be constructed in both Phases 1A and 1B in connection with the development of those Phases of the Project in accordance with the Master Plan, and will provide for the extension of such streets and utilities to future construction in Phase 2, including appropriate erosion and sediment control measures; provided, however, that upon further engineering the Developer may defer portions of the aforesaid streets and utilities into Phase 2 if the streets and utilities installed in Phases 1A and 1B are determined by the City to be adequate to service the structures in those Phases. All utilities for the Project, including electrical and telecommunications lines, will be installed underground.

III. DEVELOPMENT CONTINGENCIES

A. **Alternative Development Plan B.** If the City approves both the Phase 1A Rezoning and the Phases 1B and 2 Rezoning but sufficient funding for the New City Hall has not been secured, then the following alternative development plan (“Alternative Development Plan B”) will be pursued:

1. The Developer will construct and own Building A consisting of between 14,000 and 17,000 square feet for retail and rental uses, the construction of which shall Commence when commercial financing can be obtained therefor.
2. The City will enter into a lease/purchase agreement for the contemporaneous construction by the Developer of a one story building ultimately to be owned by the City, Building C, consisting of 6,000 gross square feet without interior build out, to include a library and such other uses as the City intends. The financing for such lease/purchase agreement shall also include the cost for the Public Infrastructure (as defined below).
3. Except as provided below in Subsection III.A.4, the Developer will construct Building B in accordance with Principal Development Plan A.
4. Alternatively, the Developer will have the option, in its sole discretion, to construct the Anchor Business Space as a standalone structure, in which case, in lieu of constructing the office and retail component of Building B, Building A will be constructed as a three story building consisting of approximately 51,000 square feet of retail and/or office space, with at least 6,000 square feet devoted to retail uses (which can include restaurants) abutting the Public Plaza.
5. Subject to approval of the necessary plans and issuance of the necessary permits by the City, the Developer will construct up to 314 Two-over-Two residential units under the same terms and conditions as are provided in Principal Development Plan A; provided, however, that:

- a. The Developer will not be permitted to Commence construction on more than a total of one hundred seventy-four (174) residential units prior to Completion of both Building A and Building C nor more than a total of two hundred forty-four (244) residential units prior to Completion of Building B; or
 - b. If the Developer has elected the option in Subsection III.A.4. and (i) has Completed Building A and Building C and has prepared the Building B Pad Site as a pad ready site, then it may construct all 314 of the aforesaid residential units in Phase 2 of the Project, unless (ii) a contract with the Anchor Business has been executed, in which case the Developer must Commence construction of Building B prior to Completion of the final 70 of the aforesaid residential units.
6. The Developer will construct the Phase 1A and Phase 1B public infrastructure, including Road B, Road C, the public parking lots shown on the Master Plan, and the associated stormwater management facilities and utilities (collectively, the “Public Infrastructure”).
 7. The lease/purchase financing will provide for the escrowing of funds for 91 underground parking spaces in the VRE Garage for City use in accordance with the Final Budget.
 8. The City will vacate the current City Hall when Phase 1A construction is Complete (including Completion of the residential units) in order that construction may Commence on Phases 1B and 2, and will relocate as the City determines in its judgment.

B. Alternative Development Plan C. If the City approves the Phase 1A Rezoning but does not approve the Phases 1B and 2 Rezoning, then, in addition to the provisions of Subsection V.G.3 below, the following alternative development plan (“Alternative Development Plan C”) will be pursued:

1. The Developer will construct and own Building A consisting of between 14,000 and 51,000 square feet for retail and office uses, the construction of which shall Commence when commercial financing can be obtained therefor.
2. The City will enter into a lease/purchase agreement for the contemporaneous construction by the Developer of a one story building ultimately to be owned by the City, Building C, consisting of 6,000 gross square feet without interior build out, to include a library and such other uses as the City intends. The financing for such lease/purchase agreement shall also include the cost of the Public Infrastructure constructed and installed by the Developer.

IV. FINANCING ALTERNATIVES

A. Financing the Project.

1. Financing.

- a. The conceptual hard and soft costs associated with the Project are set forth in the Interim Budget.
- b. The Interim Budget identifies the categories of fees, expenses, and costs that are estimated to be required for the Commencement and Completion of the work required for the Project, and identifies the party or parties who are to contribute the funds necessary. The parties agree that the Interim Budget accurately reflects their agreement as to those fees, expenses, and costs upon entering into this Agreement, and that they further agree to their allocation between the parties hereto.
- c. The parties will refine the Interim Budget based upon engineering, testing, scope adjustments, and final quotations and/or bids for the work necessary to construct the Project as may be required to achieve a mutually agreed final budget that will replace the Interim Budget upon completion (the "Final Budget"). Recognizing that actual costs might exceed those listed in the Interim Budget and that the parties may mutually agree to such increases, the City commits to approving a Final Budget that (i) does not exceed the cost projections contained in the Interim Budget by more than five percent (5%) and (ii) does not materially change the overall number and value of the improvements to be provided to the City by the Developer (*e.g.*, number of parking spaces for the City, area of the New City Hall), as determined by the City Manager; provided, however, that the Final Budget for the New City Hall will only be approved if the Phases 1B and 2 Rezoning has been approved.
- d. The City may, at its sole discretion, elect to use one of the following methods to finance its Interim Budget and the Final Budget obligations with respect to the New City Hall and the Public Infrastructure:
 - (1) Synthetic tax increment financing, in which case the City will include in the development project area properties outside the Project that will generate adequate incremental additional tax revenue so that the annual estimated revenues from tax increment receipts will exceed two times the estimated annual lease/purchase payment schedule included in the City Lease, in order to meet those obligations to the satisfaction of third-party lenders or insurers;
 - (2) A lease revenue bond issued by the Economic Development Authority of the City of Manassas Park, Virginia, or another

economic development authority or industrial development authority in the Commonwealth of Virginia;

- (3) A certificate of participation, as mutually agreed on by the City and the Developer; or
- (4) An alternative financing method, as mutually agreed on by the City and the Developer.

- e. The Final Budget will incorporate the financing costs to construct the New City Hall and the Public Infrastructure.
- f. The City will apply for such grants and funding from state or federal sources as may be available and of which it is aware to reduce the costs of the Project to the City and the Developer.

B. Financing the Development Alternatives. If the parties pursue Alternative Development Plan B or Alternative Development Plan C:

1. The City will finance the lease/purchase agreement using a certificate of participation.
2. The lease/purchase agreement will include funding for the Public Infrastructure.

V. ADDITIONAL PROVISIONS

A. Development Team. The Developer has identified its team members as those listed in **Exhibit G** (the “Development Team Members”), which is attached hereto and incorporated herein by reference, and above. The Developer may change Developer Team Members (so long as such replacements have equivalent or better level of experience) only upon the prior written approval of the City, such approval not to be unreasonably withheld, conditioned, or delayed.

B. Eminent domain or other legal actions.

1. Pursuant to the authority provided in Virginia Code Section 56-575.12, the City will hold a public hearing to consider the acquisition, including by exercise of its powers of eminent domain (including the authority to use “quick take” procedures where authorized), if necessary, of Lot 1A at a commercially reasonable price.
2. In accordance with the Interim Budget, the Developer will pay any costs, fees, and other expenses incurred for the acquisition of Lot 1A, including such costs, fees, and other expenses resulting from the City’s exercise of its power of eminent domain.

3. Additionally, the City will either exercise its powers of eminent domain (including the authority to use “quick take” procedures where authorized) to condemn the Declaration or it will bring such other action at law or in equity as it deems appropriate to eliminate or void the Declaration, at its sole cost and expense.

C. Other and further obligations.

1. The City will conduct a hazardous materials survey for the current City Hall building. The Developer will be responsible for the abatement of hazardous materials reported in the survey findings, to the extent set forth in the Interim Budget. The Developer will accept the current City Hall “As Is, Where Is” after the survey report has been completed. For purpose of this Agreement hazardous materials will mean, without limitation, those substances identified in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. §9601 et seq.; the Resource Conservation and Recovery Act, as amended (“RCRA”) 42 USC §6901, et seq.; the Hazardous Materials Transportation Act, as amended, 49 U.S.C. §1801, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. §1251, et seq.; any state, county, municipal or local statutes, laws or ordinances similar or analogous to the federal statutes listed above; and any rules, regulations, guidelines, permits, orders or the like adopted pursuant to or implementing the statutes, laws, and ordinances listed above.
2. In accordance with the Interim Budget, the Developer will perform borings and produce a preliminary geotechnical report on the site of the New City Hall building. The Developer will accept the site of the New City Hall “As Is, Where Is” after the report has been completed.
3. The City will review all applications for permits in a timely manner and the Developer will receive comments no later than forty-five days after a completed submission in accordance with the law of the Commonwealth. The Developer will be expected to return with comments addressed no later than forty-five days after comments are received from the City.
4. The City will schedule such public meetings as it deems necessary and appropriate to inform its residents of the Project and its progress.
5. The City will work with GH City Center, the owner of Parq 170 across Manassas Drive from the Project, to obtain a full release and termination of the Ground Lease as it applies to Lot 2 or to otherwise acquire, terminate, or amend the Ground Lease as it applies to Lot 2, before the initiation of construction of Phase 2B.

- D. Land Purchase.** If by December 31, 2027 the Developer has not acquired the right under this Agreement to complete all of the Two-over-Two residential units otherwise authorized because of a failure of any condition precedent to that right, the City may thereafter acquire those portions of Lot 4, Lot 5, and/or or the City Hall Residential Tract (if previously acquired by the Developer) that have not yet been developed (the “Undeveloped Phase 2”).

Property”). The Developer may offer the Undeveloped Phase 2 Property on the open market but will provide the City a recordable Right of First Offer, in a form approved by the City Attorney. Under the Right of First Offer, the City will have the right to acquire the Undeveloped Phase 2 Property at the its fair market value, as determined by an independent appraisal conducted by an MAI appraiser acceptable to both the City and the Developer. This Right of First Offer will expire December 31, 2030.

- E. Audit; Debarment.** The Developer hereby covenants and agrees that it will make all salary, billing, expense and other records relating to the work performed hereunder available for inspection and copying by the City and its authorized representatives at a reasonable cost payable by the City and during the Developer’s regular business hours upon reasonable prior notice. Any willful failure on the part of the Developer to comply with the provisions of this Section will constitute a breach of this Agreement and, regardless of whether such failure occurs during the term of this Agreement or within the three (3) year period commencing on the date of final payment of the City Lease, if such failure continues for a period of thirty (30) business days after written notice from the City, will constitute sufficient grounds for debarment of the Developer from contracting with the City. The right for the City to so debar the Developer will not be exclusive and is in addition to any other rights and remedies provided by law or under this Agreement.
- F. Accuracy of Proposal.** The Developer hereby represents and warrants to the City that as of the date of this Agreement all factual statements relating to the Developer’s prior experience and capabilities and made in the Proposal to the City to provide the services in connection with the Project as set forth in this Agreement are in all material respects true and accurate.
- G. Default and Termination.**
- 1. Default.** In the event either party fails in the performance of any term or condition of this Agreement (a “Default”), the party not in Default will be entitled to provide the defaulting party written notice of Default (demand of performance). The defaulting party will have thirty (30) days to cure said default. Should the defaulting party not cure the Default by the end of the thirty (30) day period, the demanding party may terminate this Agreement by giving written notice as provided herein, in which case this Agreement will have no further force and/or effect, except for those provisions that by definition necessarily survive the termination of this Agreement (*e.g.*, liability).
 - 2. Termination for Convenience.** The City may terminate this Agreement for convenience at any time by giving thirty (30) days’ prior written notice to the Developer, subject to the terms hereof; provided, however, that in the event that the City terminates this Agreement for convenience prior to Commencement of any Phase of the Project as contemplated herein, it will reimburse the Developer for its costs expended in anticipation of the implementation of that Phase, including the rezoning for that Phase, as evidenced by audited records of such expenses provided by the Developer, and will take ownership from the Developer of all studies, plans, plats, and other work prepared by or on behalf of the Developer in anticipation of

the implementation of that Phase. For purposes of this Subsection, legal fees are not included in such costs expended in anticipation of the implementation of the Project.

- 3. Termination upon failure of the Phases 1B and 2 Rezoning. In the event the City declines to approve the Phases 1B and 2 Rezoning, this Agreement will be deemed null and void with respect to Phases 1B and 2, except to the extent otherwise provided herein. The City will reimburse the Developer for its reasonable costs expended in anticipation of the implementation of Phases 1B and 2, as evidenced by audited records of such expenses provided by the Developer, and will take ownership from the Developer of all studies, plans, plats, and other work prepared by or on behalf of the Developer in anticipation of the implementation of Phases 1B and 2 as it applies to the City owned land. For purposes of this Subsection, (i) legal fees, and (ii) costs for site work done on Lot 2 or Lot 3-2 prior to approval of the Final Budget will not be included in such costs expended in anticipation of the implementation of Phases 1B and 2.
- 4. The rights and remedies of the parties provided in this Section are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

H. Notices. Notice and other correspondence provided for in or required by this Agreement will be hand delivered or sent by overnight mail, certified or registered U.S. mail, return receipt requested, or via facsimile, addressed as provided below. Any notice or document required or permitted hereunder will be in writing and will be deemed received (i) upon actual receipt, (ii) on the same day if hand-delivered or sent via facsimile, (iii) the following day if sent using overnight mail, or (iv) three days later if sent using certified or registered U.S. mail. Each address will for all purposes be as set forth below unless otherwise changed by notice to the other parties as provided herein:

TO THE CITY: Laszlo Palko
 City Manager
 One Park Center Court
 Manassas Park, Virginia 20111
 Telephone: (703) 335-8800
 Facsimile: (703) 335-0053

A COPY TO: Dean Crowhurst
 City Attorney
 One Park Center Court
 Manassas Park, Virginia 20111
 Telephone: (703) 335-0052
 Facsimile: (703) 335-0053

TO DEVELOPER: Village at Manassas Park, LLC
 c/o Norton Scott, LLC
 1420 Beverly Road, Suite 240

McLean, Virginia 22101
Telephone: (703) 738-8736
Facsimile: (703) 783-8621

A COPY TO:

Walsh, Colucci, Lubeley & Walsh, P.C.
c/o John H. Foote, Esq.
and Jonelle M. Cameron, Esq.
4310 Prince William Parkway, Suite 300
Prince William, Virginia 22192
Telephone: (703) 680-4664
Facsimile: (703) 680-2161

- I. Indemnification.** The Developer will indemnify and hold the City, the members of its Governing Body, and its officers, employees, and authorized representatives harmless from and against, and will process and defend at its own expense, any and all claims, demands, suits, at law or in equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City, the members of its Governing Body, and/or its officers, employees, or authorized representatives, arising out of, in connection with, or incident to the execution of this Agreement solely with respect to the negligence, willful misconduct or willful omission of the Developer or the Developer's agent in the performance of the work contemplated by this Agreement (excluding any consequential loss, damage and/or expense) resulting in bodily injury or property damage.
- J. Independent Contractors.** Neither the Developer, nor any of its employees, agents, subsidiaries, or subcontractors will be considered employees, servants, agents, partners, or joint venture partners of or with the City by reason of this Agreement. Neither the City, nor any of its employees, agents, or subcontractors will be considered employees, servants, agents, partners, or joint venture partners of or with the Developer by reason of this Agreement.
- K. Non-liability of the City and the Developer, Officials, and Employees.** No director, officer, official, employee, agent, or representative of the City will be personally liable to the Developer or any successor in interest, in the event of any default or breach by the City for any amount which may become due to the Developer or any successor in interest, or on any obligation incurred under the terms of this Agreement. No officer, member, partner, official, employee, agent, or representative of the Developer will be personally liable to the City or any successor in interest, in the event of any default or breach by the Developer for any amount which may become due to the City or any successor in interest, or on any obligation incurred under the terms of this Agreement.
- L. Insurance.**
1. The Developer agrees to (i) notify the City promptly after the Developer receives actual notice of any loss, damage or injury related to or in connection with the Project; (ii) notify any insurance carrier of same as directed by the City, (iii) take no action (such as admission of liability) that would prejudice the City from obtaining any protection afforded by any policy the City may hold or which might

prejudice in any material manner the City in its defense to any claim, demand or suit within limits prescribed by the policy or policies of insurance; and (iv) aid and cooperate with the City in every reasonable respect with respect to such insurance and any loss thereunder.

2. The Developer, at its own expense and not as a reimbursable expense, will carry the following minimum insurance coverage (except as waived by the City in its sole discretion) and provide the City with a Certificate of Insurance evidencing the same:
 - a. Workers' Compensation insurance in the statutory amount (or participate in the appropriate state fund if commercial insurance is not available or allowed), including Employers' Liability insurance in the amounts of not less than Five Hundred Thousand Dollars (\$500,000) each accident, Five Hundred Thousand Dollars (\$500,000) each employee (disease) and Five Hundred Thousand Dollars (\$500,000) aggregate (disease).
 - b. Commercial General Liability insurance written on an occurrence basis with limits not less than Two Million Dollars (\$2,000,000) combined single limit per occurrence and Four Million Dollars (\$4,000,000) aggregate for contractual liability, personal injury, bodily injury, and property damage; Automobile Liability insurance with limits not less than Two Million Dollars (\$2,000,000) combined single limit per accident for bodily injury and property damage; and Umbrella/Excess Liability insurance with limits not less than Five Million Dollars (\$5,000,000). All liability insurance policies will name the Developer as the named insured and the City as an additional insured and a copy of the endorsement naming the City as an additional insured shall be attached to each Certificate of Insurance. The Developer's Commercial General Liability policy will be primary and non-contributory with any other insurance coverage or self-insurance carried by the Commonwealth of Virginia or the City with respect to any claims arising out of the performance or non-performance of the scope of work described herein and contemplated hereby.
 - c. Professional Liability (Errors and Omissions) insurance written on a Claims Made basis with limits not less than Five Million Dollars (\$5,000,000), with a deductible not to exceed Two Hundred and Fifty Thousand Dollars (\$250,000).
3. By requiring the minimum insurance amounts specified herein, the City will not be deemed or construed to have assessed the risk that may be applicable to or incurred by the Developer.
4. Upon request, the Developer will furnish to the City certificates of insurance evidencing the foregoing coverage either by the Developer or third-party firms. All insurance policies will be in form, amounts, and with such companies as are

reasonably acceptable to City, provided, however, that in no event will any insurer have a Best Insurance Rating of less than “A-VIII.”

5. The Developer will ensure that the Developer’s third-party firms (*i.e.*, General Contractor, Architect, Engineers, and others, as appropriate) will carry the following minimum insurance coverage and provide the City with a Certificate of Insurance evidencing the same:
 - a. Workers’ Compensation insurance in the statutory amount (or participate in the appropriate state fund if commercial insurance is not available or allowed), including Employers Liability insurance in the amounts of not less than Five Hundred Thousand Dollars (\$500,000) each accident, Five Hundred Thousand Dollars (\$500,000) each employee (disease) and Five Hundred Thousand Dollars (\$500,000) aggregate (disease).
 - b. Commercial General Liability insurance written on an occurrence basis with limits not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) aggregate for contractual liability, personal injury, bodily injury, and property damage;
 - c. Automobile Liability insurance with limits not less than One Million Dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage;
 - d. Umbrella/Excess Liability insurance with limits not less than Three Million Dollars (\$3,000,000).
 - e. Additional Requirements: All liability insurance policies will name the Developer and the City as additional insureds and a copy of the endorsement naming the City as an additional insured shall be attached to each Certificate of Insurance.
 - f. If applicable, Professional Liability (Errors and Omissions) insurance written on a Claims Made basis with limits not less than Two Million Dollars (\$2,000,000), with a deductible not to exceed Two Hundred and Fifty Thousand Dollars (\$250,000).
6. The Developer understands and acknowledges that the City is body corporate and politic and with respect to tort liability for acts or occurrences involving the Project, including product liability, the Commonwealth and the City are either (i) constitutionally immune (or partially immune) from suit, judgment or liability or (ii) covered by a financial plan of risk management that is in the nature of self-insurance, all as determined by applicable laws, government policies and practices. Nothing contained herein will constitute a waiver of the sovereign immunity of the City.

M. Prior Agreements and Discussions. Any agreements between the City and the Developer before this Agreement and relating to the Project are superseded by this Agreement. All

prior discussions and negotiations are merged into this Agreement. The submission of an unexecuted copy of this Agreement will not constitute an offer to be legally bound by the provisions of the document submitted; and no party will be bound by this Agreement until it is executed by, and delivered by and to, both parties.

N. No Third Party Rights. Nothing in this Agreement will be construed to permit anyone other than the City and the Developer and their respective successors and assigns to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third party beneficiary or otherwise) on account of any nonperformance hereunder.

O. Non-Discrimination. During the performance of this Agreement:

1. The Developer will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Developer. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
2. The Developer, in all solicitations or advertisements for employees placed by or on behalf of the Developer, will state that such Developer is an equal opportunity employer.
3. Notices, advertisements and solicitations placed in accordance with federal law, rule, or regulation will be deemed sufficient for the purpose of meeting the requirements of this Section.

The Developer will include the provisions of the foregoing Subsections 1, 2, and 3 in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

P. Drug-Free Workplace. During the performance of this Agreement:

1. The Developer will provide a drug-free workplace for the Developer's employees.
2. The Developer will post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Developer's workplace and specifying the actions that will be taken against employees for violations of such prohibition.
3. The Developer will state in all solicitations or advertisements for employees placed by or on behalf of the Developer that the Developer maintains a drug-free workplace.

The Developer will include the provisions of the foregoing Subsections 1, 2, and 3 in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

- Q. Compliance with Federal Immigration Law.** The Developer does not, and will not during the performance of this Agreement, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- R. Authority.** The City and the Developer both have full power and authority to enter into this Agreement. The persons signing this Agreement on behalf of the City and the Developer have full power and authority to bind their respective entities to the terms and conditions of this Agreement.
- S. Assignment.** This Agreement cannot be assigned or delegated without the prior written consent of both parties. This Agreement will be binding upon and inure to the benefit of each of the parties hereto and their respective permitted legal successors and permitted assigns.
- T. Executed in Virginia.** This Agreement will be taken and deemed to have been fully made and executed by the parties hereto in the Commonwealth of Virginia for all purposes and intents and will be governed by and subject to the laws of the Commonwealth of Virginia without giving effect to conflict of law principles.
- U. Dispute Resolution Process.**
1. In the event any claim, controversy, or dispute arises between the City and the Developer with respect to this Agreement, the parties will undertake in good faith to resolve the dispute. If the City and the Developer cannot resolve any disagreement within thirty (30) days after written notice of such claim, controversy or dispute, either party may pursue any remedies available to such party under this Agreement at law or in equity, including, without limitation, specific performance of this Agreement. As long as the parties are attempting in good faith to resolve a dispute under this Agreement, the parties will continue to perform their respective obligations under this Agreement.
 2. The parties may after the aforesaid thirty (30) days jointly elect to submit any issue to mediation, or binding arbitration by a single arbitrator under the Rules for Commercial Arbitration of the American Arbitration Association, but if they do not agree to do so, or if they elect litigation, sole jurisdiction and venue will be in the Circuit Court of Prince William County, Virginia.
- V. Waiver of Jury Trial.** The Developer and the City each agree not to elect a trial by jury of any issue triable of right by jury, and each party waives any right to trial by jury with regard to this Agreement or any action arising in connection therewith.
- W. Waiver.** No waiver of any of the terms or conditions of this Agreement or of any breach of its terms or conditions will be effective unless such waiver is in writing and signed by

the waiving party. No waiver of any breach will be deemed a waiver of any other subsequent breach.

- X. **Severability.** If any term, covenant, or condition contained herein is adjudged invalid or unenforceable to any extent, the remainder of this Agreement will be valid and enforceable to the fullest extent permitted by law.
- Y. **Interpretation.** The captions in this Agreement will be of no force or effect in its interpretation. This agreement will not be construed against one Party or the other on the basis that its counsel drafted it or participated in its drafting. The words “include”, including,” or words to similar effect will not be construed to be words of limitation.
- Z. **Authorization to Transact Business.** If The Developer or any Development Team **Member is a stock or nonstock corporation, limited liability company, business trust, or** limited partnership, or is registered as a registered limited liability partnership, it will be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, or as otherwise is required by law. In the event there is a failure at any time to maintain such registration, this Agreement is voidable by the City.
- AA. **Auditor of Public Accounts.** The City will submit a copy of this Agreement to the Auditor of Public Accounts of the Commonwealth of Virginia within thirty (30) days of the Effective Date.
- BB. **Modification.** This Agreement may not be modified or amended in any respect except by a written agreement executed by the parties to be bound in the same manner as this Agreement is executed.
- CC. **Counterparts.** This Agreement may be executed in several counterparts, each of which will be deemed an original, and all of such counterparts together will constitute one and the same instrument.
- DD. **Exhibits.** The following exhibits are incorporated into and made a part of this Agreement:
- Exhibit A: Master Plan
 - Exhibit B-1: Vacation Plat
 - Exhibit B-2: Deed of Boundary Line Adjustment
 - Exhibit B-3: Boundary Line Adjustment Plat
 - Exhibit C: Interim Budget
 - Exhibit D: City Lease Term Sheets
 - Exhibit E: City Hall Functional Narrative
 - Exhibit F: Proffers for Phases 1B and 2 Rezoning
 - Exhibit G: Development Team Members
 - Exhibit H: Initial Schedule
 - Exhibit I: Elements of Project Phasing

(Signatures appear on the following page)

IN WITNESS WHEREOF the parties have executed this Agreement effective on the Effective Date first set out above.

CITY OF MANASSAS PARK, VIRGINIA

By: _____
Jeanette Rishell, Mayor

Date: _____

VILLAGE AT MANASSAS PARK, LLC

By: _____
Michael W. Scott, Managing Member

Date: _____

DRAFT

EXHIBIT A

Master Plan

DRAFT

EXHIBIT B-1

Vacation Plat

DRAFT

EXHIBIT B-2

Deed of Boundary Line Adjustment

DRAFT

DEED OF BOUNDARY LINE ADJUSTMENT

THIS DEED OF BOUNDARY LINE ADJUSTMENT (this “Deed”) is made this ____ day of _____, 2020, by the CITY OF MANASSAS PARK, VIRGINIA, a body corporate and politic, its successors and assigns (together, the “City”) (Grantor and Grantee).

RECITALS

R-1. The City is the owner of certain real property situate in Manassas Park, Virginia, as follows:

- Lot 1B, Resubdivision Plat Lot 1, CONNER CENTER (“Lot 1B”), with tax map number 24-3-1B, as shown on the plat attached hereto and incorporated herein by this reference (File No.19244-1-0), dated May 5, 2020, titled “PLAT SHOWING LOTS 3-2, 4-2, 5-1 & 6, CONNER CENTER A BOUNDARY LINE ADJUSTMENT OF LOTS 1B, 3-1, 4-1, 5A, 5B & 5C & AREAS 1, 1A, 2, 2A & 2B CONNER CENTER DEED BOOK 1235 PAGE 1422, DEED BOOK 1542 PAGE 1931, DEED BOOK 1909 PAGE 563 & INSTRUMENT # 202004150029572” and prepared by Land Design Consultants, Inc. of Woodbridge, Virginia (the “Plat), having acquired Lot 1B by deed recorded as Instrument No. 201111180095681 among the land records of Prince William County, Virginia (the “Land Records”); and
- Lot 3-1, CONNER CENTER, Blooms Court (“Lot 3-1), with tax map number 24-3-3, as shown on the Plat, having acquired Lot 3-1 by deed recorded in Deed Book 1577, at Page 1726, among the Land Records; and
- Lot 4-1, CONNER CENTER, Blooms Court (“Lot 4-1”), with tax map number 25-1-4, as shown on the Plat, having acquired Lot 4-1 by deeds recorded as Instrument No. 200310090186682 and as Instrument No. 202004150029572 among the Land Records; and
- Lots 5A, 5B, and 5C, CONNER CENTER, Blooms Court (“Lot 5A”, “Lot 5B”, and “Lot 5C”, respectively), with tax map numbers 24-3-5A, 24-3-5B, and 24-3-5C, respectively, as shown on the Plat, having acquired Lot 5A, Lot 5B, and Lot 5C by deed recorded as Instrument No. _____ among the Land Records; and
- Area #1, Area #1A, Area #2, Area #2A, and Area #2B, as shown on the Plat, being portions of the Park Center Court public right-of-way that was vacated and abandoned pursuant to Ordinance _____, recorded as Instrument No. _____ among the Land Records.

R-2. It is the desire and intent of the City to adjust the boundary lines between Lot 1B, Lot 3-1, Lot 4-1, Lot 5A, Lot 5B, Lot 5C, Area #1, Area #1A, Area #2, Area #2A, and Area #2B (collectively, the “Property”), as shown on the Plat and as hereinafter provided.

NOW, THEREFORE, WITNESSETH, that for and in consideration of the premises, the sum of Ten Dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

INCORPORATION OF RECITALS

The foregoing Recitals are hereby incorporated into this Deed by this reference as if set forth herein in their entirety.

BOUNDARY LINE ADJUSTMENT

The City hereby adjusts the boundary lines between Lot 1B, Lot 3-1, Lot 4-1, Lot 5A, Lot 5B, and Lot 5C in accordance with the Plat, thereby creating and establishing four new parcels as follows:

- (i) Lot 3-2, CONNER CENTER, Blooms Court, containing _____ acres (_____ square feet) of land, to be owned in fee simple by the City;
- (ii) Lot 4-2, CONNER CENTER, Blooms Court, containing _____ acres (_____ square feet) of land , to be owned in fee simple by the Village at Manassas Park;
- (iii) Lot 5-1, CONNER CENTER, Blooms Court, containing _____ acres (_____ square feet) of land, to be owned in fee simple by the City; and
- (iv) Lot 6, CONNER CENTER, Blooms Court, containing _____ acres (_____ square feet) of land, to be owned in fee simple by the City.

GENERAL PROVISIONS

The covenants stated above are not covenants personal to the City but are covenants running with the land, which are and shall be binding upon the City, its heirs, successors, and representatives, as owner of the Property.

The platting of the land and adjustment of the boundary lines as provided by this Deed and the Plat are made with the free consent and in accordance with the desires of the City, as owner of the Property, and are in accordance with the provisions of Virginia Code Section 15.2-2264 and applicable laws and regulations of Manassas Park, Virginia, as evidenced by the approval of the boundary line adjustment by the authorized officials of Manassas Park, Virginia, as noted in this Deed and on the Plat.

{The remainder of the page is intentionally left blank}

FURTHER WITNESS THE FOLLOWING SIGNATURES AND SEALS:

CITY OF MANASSAS PARK, VIRGINIA,
a body corporate and politic

By: _____
Jeanette Rishell, Mayor

COMMONWEALTH OF VIRGINIA
CITY OF MANASSAS PARK, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____,
2020, by Jeanette Rishell, as Mayor of the City of Manassas Park, Virginia.

Notary Public

My Commission Expires: _____

APPROVED AS TO FORM

Dean H. Crowhurst, City Attorney

EXHIBIT B-3

Boundary Line Adjustment Plat

DRAFT

EXHIBIT C

Interim Budget

DRAFT

EXHIBIT D

City Lease Term Sheets

DRAFT

EXHIBIT E

City Hall Functional Narrative

DRAFT

EXHIBIT F

Proffers for Phases 1B and 2 Rezoning

DRAFT

EXHIBIT G

Development Team Members

Village at Manassas Park, LLC

Michael Scott
Chelsea Rao
David Salzer

Davis Carter Scott Ltd., Architects

Thomas Dinneny
R. Randall Vosbeck Jr.

Land Design Consultants, Inc.

Matthew Marshall
Jessica Bradshaw
Josh Marshall
Birkan Ustaavci
James Madison

Gorove/Slade Associates, Inc.

Niraja Chandrapu
Chad Baird
Kevin Sitzman

NW Capital Markets, Inc.

James A. Fagan
Howard Mackey

Walsh, Colucci, Lubeley & Walsh, P.C.

John H. Foote, Esq.
Jonelle M. Cameron, Esq.

EXHIBIT H

Initial Schedule

1. Comprehensive Agreement	June 2020
2. Phase 1A Rezoning	June 2020
3. City approved schematic design concepts and preliminary design; based on meetings with City officials and others, for Building A	September 2020
4. Phases 1B and 2 Rezoning	October 2020
5. City approves Site Plan for Building A	December 2020
6. City approves Site Plan for Building C	December 2020
7. VRE initiates construction	TBD
8. VRE completes construction	TBD
9. Building A and infrastructure Completed	December 2022
10. Building C Completed	December 2022
11. Building B Completed	Per agreement

EXHIBIT I

Elements of Project Phasing³

Phase 1A.

Predevelopment Activities

- a. Acquisition and conveyance of the Leatherbury Parcels to the City
- b. Conveyance of the Leatherbury Parcels to the VRE
- c. Conveyance of City Property to the Developer
- d. Phase 1A Rezoning
- e. Phases 1B and 2 Rezoning

Development Activities

- a. Building A, New City Hall and Library and supporting parking and other infrastructure
- b. Building C, 6,000 square foot retail building
- c. Construction of Roads A, B, and D-1
- d. Initiation of residential development
- e. City easements for construction on City owned property outside of the Phase 1A property.

Phase 1B

- a. Building B and in line retail
- b. Construction of Road C
- c. Completion of Infrastructure

Phase 2

- a. Initiation of the remainder of the residential development
- b. Construction of Road D-2

³ Phases may not be in sequential order.