

VOLUNTARY CONCESSIONS, COMMUNITY BENEFITS, TERMS AND CONDITIONS

Broad & Washington

Revised April 6, 2018

In association with the requested rezoning, and special exception to allow the redevelopment of the property with addresses of 100 N. Washington Street, 127 and 131 E. Broad Street, having real property codes 53-104-051, 53-104-036, and 53-104-050 (the “Subject Property”), Broad and Washington LLC (the “Owner”) voluntarily proffers the following for the benefit of the community and the City of Falls Church (the “City”). The Owner acknowledges that through special exception approval, it has been granted certain bonuses, including height and increased residential uses, and other benefits in reliance upon its agreements as set forth below, to provide certain features, design elements, uses, services, or amenities desired by the City, including but not limited to, site design, public improvements, environmentally sustainable and energy-efficient building design, affordable housing creation, and capital contributions to City parks, library, and schools as part of the development. As used herein “Owner” shall refer to the applicant, any contract owner, the property owner, and any successors or assigns:

1. Conformance with Conceptual Development/Special Exception (CDP/SE) Plan: The Owner agrees to develop the Subject Property in conformance with (1) the Conceptual Development Plan (CDP) dated March 19, 2018 as prepared by Bowman Consulting Group, LTD and (2) the Traffic Impact Study (TIA) dated October 13, 2017 prepared by Gorove/Slade. The Owner agrees that the project will include no more than 295 residential units in total, none of which shall be 3 bedroom units. The Owner further agrees that the residential gross floor area (apartments, lobbies, and amenity space) in the project is capped at 294,800 square feet. The City Manager may approve minor deviations from conformance with these documents, as requested by the Owner, provided the deviations do not conflict with what is specifically agreed to in these Voluntary Concessions, are consistent with the purpose and intent of the City Council's approval of the Special Exception, and either (i) are necessary to permit reasonable construction of the project, or (ii) as determined by the City Manager, improve the project's overall functioning or benefit to the City. The Owner may appeal an adverse decision by the City Manager to the City Council. Notwithstanding the above and the tabulations shown on the CDP, the Owner may construct an additional 800 square feet of office or other commercial floor area, subject to the provisions in Voluntary Concession

2, without the need for amendments to these Voluntary Concessions or the CDP and without the need for a determination by the City Manager.

2. Uses: The Owner agrees that the uses allowed on the Subject Property shall be limited to the following: a multifamily use which is intended to be rental, but can be converted to condominiums at the discretion of the Owner, an office use, and ground floor uses as described below.

i. Office. The proposed office use shall be constructed concurrent with the proposed multi-family and ground floor components of the project, with core and shell construction completed prior to issuance of the first occupancy permit for residential uses. Up to 5,000 square feet of the office building's top floor may be utilized for restaurant uses, retail uses, or other non-prohibited uses. The Owner may utilize the plaza level of the office for additional retail and restaurant uses.

ii. Ground Floor Uses.

i. Retail Plan. The Owner shall provide the following ground floor uses:

1. A minimum of 13,000 square feet of ground floor space shall be reserved exclusively for restaurant use. The Owner anticipates a variety of restaurant types, including, but not limited to, full service, sit-down restaurants, more casual restaurants, and bakery/cafés.
2. A minimum of 6,000 square feet of specialty grocery use, subject to the below conditions. If, despite diligent pursuit by the Owner, a specialty grocery store lease is not signed within 2 years after approval of the site plan for this project or a specialty grocery store ceases to operate after obtaining an occupancy permit, then the 6,000 square feet of space reserved for specialty grocery use may be used for restaurant use or retail sales use as allowed under the Voluntary Concessions.
3. A minimum of 5,000 square feet of ground floor space is reserved for Creative Cauldron. Subject to obtaining a signed lease with Creative Cauldron and to specific provisions in any lease with Creative Cauldron, which shall control, the Owner agrees to build out the 5,000 square foot Creative Cauldron space at its cost and to specifications agreed to between Creative Cauldron and the Owner. If Creative Cauldron's use is not established within six (6) months after issuance of the

first residential certificate of occupancy or if Creative Cauldron ceases to operate in the space after obtaining an occupancy permit, then the Owner shall prepare a marketing plan, which shall be submitted to the City, and shall actively market the 5,000 square feet to other arts and entertainment tenants for a minimum period of six (6) months after submission of the marketing plan. If after that six (6) month period is completed an arts and entertainment tenant has not signed a lease for the space, then the 5,000 square feet may be utilized for any non-Prohibited use.

4. A minimum of 1,500 square feet of ground floor space shall be reserved exclusively for retail sales use. The Owner anticipates, but is not limited to, focusing on retail apparel, a bookstore, boutique clothing or designer glasses/jewelry uses with this space.
 5. The Owner may redistribute up to 10% of the ground floor area between the uses in this Voluntary Concession 2(ii) in its sole discretion. The Owner may redistribute an amount of reserved floor area above 10% between the uses in this Voluntary Concession 2(ii) with consent of the City Manager, which consent may be granted only upon certification by the City Manager that such change does not have a substantial negative fiscal impact for the City, or on an appeal of the City Manager's decision to the City Council.
- ii. Prohibited. The following uses shall be prohibited in the ground floor of the proposed building:
1. Public buildings and facilities
 2. Hotels, motels
 3. Business and professional offices, including medical and dental
 4. Clinics
 5. Offices for medical, dental and optical laboratories and offices for operations devoted exclusively to scientific research
 6. Offices for tax preparation or insurance sales
 7. Real estate offices
 8. Inns, bed and breakfasts
 9. Group homes permitted by Section 48-486(10)
 10. Parking lots as a principal use
 11. Self-service laundries
 12. Laundry and dry cleaning depots
 13. Shoe repair shops
 14. Barbershops, beauty salons, and nail salons
 15. Studios, including yoga

16. Antique shops
17. Mortuaries
18. Adult uses
19. Any drug paraphernalia establishment
20. Amusement arcade, as a principal or accessory use
21. Laundry and dry cleaning establishments
22. Satellite television antenna or ground-mounted conventional television or radio antenna
23. The preparation, processing, assembling of electronic devices and equipment, including computer systems, communication systems, security systems, fire protection systems, control systems and the like
24. Drive-thru or drive-through facility
25. Temporary shelters
26. Auction house
27. Flea market
28. Blood bank
29. Car wash
30. Rental car offices or sales
31. Car dealerships

3. Ground Floor Design Requirements: The Owner agrees that the following design standards shall be met for all retail space identified as part of the GLA in the project:
 - i. Retail ceiling heights: the ground floor retail spaces shall be constructed with a minimum interior ceiling height in at least 85% of the retail space (measured “slab to slab”) of 16 feet in height.
 - ii. The Owner agrees that the ground floor retail or other ground floor commercial space wall fronting E. Broad Street or N. Washington Street shall have an average 70% transparency (meaning a clear view from the outside to the interior space and activity and not obstructed by drapes or blinds, or by any other window coverings, or shelving or other furniture) for the area of any wall facing said streets that is between three (3) feet and eight (8) feet above grade. This provision is not intended to prohibit merchandise displays that are viewed from the street within the transparency area or restaurants that utilize blinds or curtains to intermittently shade customers from unwelcomed sunlight. Further, this provision is not intended to prohibit restaurants from placing seating adjacent to windows. The transparency requirements shall not apply to any theater use.
 - iii. The Owner agrees that all retail businesses that front E. Broad Street and N. Washington Street shall have retail storefront entrances that provide retail customers ingress and egress to and from the adjacent street.

- iv. At least 13,000 square feet of ground floor space shall have access to a ventilation shaft through the roof that meets all City Building Code requirements for restaurant use. Such access shall be provided prior to issuance of a certificate of occupancy for ground floor restaurant spaces.
 - v. Prior to issuance of the first certificate of occupancy for ground floor uses, the Owner agrees to build out the ground floor retail spaces with a minimum HVAC, electric rough in, plumbing rough in, storefront doors and windows along E. Broad Street, sprinkler and fire alarm rough-in, and a rear door.
4. Architectural Design. The architectural design and building materials shall be in general conformance with the illustrative elevations included in the special exception application, but may be modified by the Applicant as part of final engineering and building design, provided that such modifications provide an equivalent quality of design and materials to those shown on the illustrative elevations included in the special exception application, subject to approval by the Planning Commission with recommendation by the Architectural Advisory Board. Any exterior vents on the façade shall be painted to match the color of the surrounding material.
5. Pedestrian Improvements
- i. Streetscape:
 - i. The Owner agrees to construct streetscape improvements along E. Broad Street, N. Washington Street, and Lawton Street in conformance with the City of Falls Church's adopted Streetscape Standards adopted March 13, 2017.
 - ii. The Owner agrees to maintain the streetscape improvements (excluding maintenance of and cost of electricity for City standard streetlights) constructed as part of this project as long as the project remains. The terms of such maintenance responsibilities will be set forth in a Streetscape Maintenance Agreement to be negotiated between the Owner and the City, which agreement will be finalized, approved by the City Manager, and executed by the Owner prior to issuance of a Certificate of Occupancy for any occupiable space in the project.
 - iii. The Owner agrees to provide two, 2" empty conduits for fiber optic cable, for use by the City, to run under the West Broad Street and North Washington Street sidewalks and crosswalks constructed by the Owner.
 - iv. The Owner agrees to install an exterior electrical outlet (quad outlet) at each planter bed, and an exterior water bib every 100 linear feet along N. Washington Street and E. Broad Street along the building face.

- ii. Bus Stop: The Owner agrees to construct bus stops including shelters with appropriate signage and landing pad amenities at locations generally shown on the CDP, but with the final location to be determined in coordination with the City Manager as being consistent with the City's Bus Stop & Shelter Plan during Site Plan approval. The bus stop design and amenities shall be included in the Site Plan approval, and will be in conformance with the City's adopted Bus Stop & Shelter Plan, which provides specifications and target locations for such bus stops. The shelter shall include conduit and electrical service to allow for installation of a real time bus information sign. The Owner further agrees that, in lieu of building the shelters, and at the discretion of City, the Owner may pay the City \$30,000 prior to the issuance of building permits for the project, as its contribution toward a bus shelter elsewhere in the City.
 - iii. Crosswalks.
 - i. The Owner agrees to construct ADA-compliant pedestrian crosswalks between the existing curb lines at the E. Broad Street and N. Washington Street intersection as shown on Sheet C4.0 of the CDP as "PROPOSED BRICK CROSSWALK UPGRADE". If at the time of site plan submission the City determines that redesign of the E. Broad Street and N. Washington Street intersection is desired, the Owner may escrow \$75,000 with the City in lieu of providing the crosswalks contemplated in the Voluntary Concession.
 - ii. The Owner agrees to construct an ADA-compliant pedestrian crosswalk at Lawton Street as shown on Sheet C4.0 of the CDP as "PROPOSED BRICK CROSSWALK".
6. Schools Capital Cost Contribution: The Owner agrees to make a voluntary contribution to the City of Falls Church to offset school capital costs. The developer agrees to voluntarily contribute \$7,511 for each of the market rate rental apartments to offset school capital costs. The total contribution shall be paid at the time of the issuance of the first residential certificate of occupancy.
7. Public Safety
- i. Public Safety Radio: The Owner agrees to ensure that all buildings and parking garages on the Subject Property are constructed in a manner that permit public safety radio signals to be transmitted and received throughout all areas within the building and from those areas to all outdoor areas of the property that is the subject of the Special Exception. The Owner will install the necessary equipment and, with at least five days' notice to the City Manager, perform a radio transmission test upon

completion of the project, but prior to issuance of the first Certificate of Occupancy, in order to establish that there exists the ability to transmit and receive public safety radio signals from the interior of the building and parking garages, including the subterranean levels. The Owner agrees to permit the City Manager or his designee to be present at the site during the tests and to verify the results. Should the test fail, the Owner will find and implement a solution acceptable to the City so as to resolve the problem within 90 days of the test.

- ii. Life Safety: The Owner agrees to provide:
 - i. Emergency Generator: Natural gas, or other approved power supply, generator sized to accommodate the following loads all at one time for the Subject Property:
 - 1. Fire Alarm System
 - 2. Fire Pump, if equipped
 - 3. Emergency Hall and Exit Lighting
 - 4. One Elevator for the Multifamily Use and One Elevator for the Office Use.
 - 5. Domestic Water Pumps, if equipped, and
 - 6. Sump Pumps.
 - ii. Fire command center with control and annunciation of elevators, generator, fire pump, and HVAC systems, including a separate cooling system for the command center.
 - iii. Automatic smoke detection for utility and other rooms not typically occupied.

8. Public Parking. The Owner agrees to permit paid public parking within the parking garage. Prior to issuance of the first certificate of occupancy for the development, the Applicant shall submit a parking management plan (the "Parking Management Plan") to the City Manager for approval. The Parking Management Plan shall include minimum hours of operation for the paid public parking that take into account hours of operation for uses in the immediate vicinity of the project, operational details regarding control gates and payment systems, and the number and location of parking spaces open to the public. The initial hours of operation for paid public parking shall be between 6:00am and 10:00pm Monday through Thursday, 6:00am and 12:00am Friday, 7:00am and 12:00am Saturday, and 7:00am and 10:00pm Sunday. However, the Owner may modify the hours of operation with the written approval of the City Manager, which modifications may be approved only upon a demonstration that the changes:

- i. Address health, safety, and welfare of tenants, residents, or guests of the project,
- ii. Are based on observed public parking demand for the garage, or

- iii. Upon a demonstration that he changes provide a benefit to customers and employees of the commercial and entertainment uses in the area.

Outside of the hours of operation, members of the public may not enter the garage, but anyone parked in the garage may exit at any time.

- 9. Transportation Demand Management (TDM) and Parking Management Plan. The Owner agrees to develop and implement a TDM program as referenced in the Transportation Management Plan that was submitted with the special exception application. The Owner agrees to obtain the City Manager’s approval of the TDM program as meeting the standards of this VC and as likely to achieve the goals listed below, before site plan approval. The Owner agrees to implement the TDM program and Parking Management Plan, together, in a way that achieves the goal of reducing the number of PM peak hour vehicle trips for multi-family and office by 25 percent from ITE Trip Generation Model predictions. The TDM program will include a list of infrastructure and incentives to be provided as well as monitoring programs and additional techniques to be administered in the event performance goals are not achieved. In addition, the TDM program will categorize infrastructure, techniques and incentives (hereafter collectively referred to as “elements”) as falling into one or more of four categories: (1) Site Design, Infrastructure and Options; (2) Promotion, education and incentives; (3) Monitoring and Enforcement; and/or (4) Adaptive Management. The Owner agrees to work with the City Manager to reach agreement as to how the elements will be used at any given time. The TDM program will conform to these documents and the CDP and will be finalized and approved as part of the Site Plan process.
- 10. N. Washington Street Median Break. The Owner shall design and construct a median break on N. Washington Street in the location shown on Sheet C4.0 of the CDP as “POTENTIAL MEDIAN BREAK SUBJECT TO VDOT AND CITY APPROVAL” prior to removal of the existing surface parking on the Subject Property. The proposed improvement is limited to removal of the existing median, milling and repaving of disturbed areas within the N. Washington Street ROW, and installation of any required traffic control signage (but not a traffic signal). This Voluntary Concession is conditioned upon receiving all City and VDOT approvals necessary to construct the median break. Failure to obtain VDOT approval, despite diligent efforts, shall not prevent the Applicant from obtaining site plan approval, building permits, or certificates of occupancy for the Subject Property.
- 11. Environmental Improvements:
 - i. Green Building Criteria: The Owner agrees to have the project

designed such that a Leadership in Energy and Environmental Design (“LEED”) Accredited Professional (“LEED AP”) can and will certify that the project is likely to yield at least the points necessary to achieve status of LEED Gold under LEED v4. Prior to site plan approval, the Owner will provide the City with a LEED checklist as prepared by a LEED AP. Following completion of construction and occupancy, and in accordance with LEED guidelines, the Owner will prepare the necessary documentation to seek official LEED certification from the U.S. Green Building Council. Prior to the issuance of first certificate of occupancy, the Applicant will post a \$50,000 bond or letter of credit for the building which includes terms approved in advance by the City Manager to assure the City that the Owner will satisfy its obligations under this paragraph to achieve LEED Gold certification. If the building achieves the intended LEED certification within three (3) years after issuance of a certificate of occupancy for the last residential unit, then the associated bond or letter of credit will be released by the City. If the project does not achieve the intended LEED certification within three (3) years after the issuance of the last certificate of occupancy but fell within five (5) points of attainment intended LEED certification, 50% of the bond or letter of credit will be released to the Owner; the City will redeem the other 50% of the associated bond or letter of credit for City environmental improvements at the project location and/or vicinity with the scope at the City’s sole discretion. If the project does not achieve the intended LEED certification within three (3) years after the issuance of the last certificate of occupancy but was more than five (5) points from attaining the intended LEED certification, the City will redeem the associated bond or letter of credit for City environmental improvements at the project location and/or vicinity with the scope at the City’s sole discretion.

- ii. Future Solar Panels: The Owner agrees to aggregate rooftop mechanical systems to the best extent possible, and to take into consideration the possibility that in the future an opportunity may arise for installation of rooftop solar panels to capture solar energy to be sold to the grid. In such future event the Owner agrees to a good faith evaluation of the feasibility of allowing the installation of solar panels for providing solar energy to the grid; provided however, the Owner reserves the right for the future installation of solar panels to provide solar energy to be consumed exclusively by the project.
- iii. Electric Vehicle Charging Station: The Owner agrees that a minimum of five charging stations for electric vehicles will be provided in the project parking garage. The Owner further agrees

to provide conduit for the future installation of five additional charging stations for electrical vehicles. The location of the charging station will be determined at Site Plan Approval.

- iv. Sanitary Sewer Capacity: The Owner agrees to conduct a sewer capacity analysis by a qualified engineer to an extent determined by the Director of Public Works, but not more than 1000 feet downstream of the project in any direction. During Site Plan the Owner and Public Works will determine if any sanitary sewer improvements are necessary to alleviate capacity concerns identified after development flows are modeled. The design and construction costs to perform necessary improvements (excluding capacity analysis) will be determined during Site Plan approval. The Owner agrees to design and construct the system improvements. The City will waive part or all of Sewer Availability fees in an amount equal to the verified costs of design and construction of said improvements.
- v. Storm Drainage and Runoff: The Owner agrees to provide storm water management in conformance with that shown on the CDP.
- vi. Stormwater Fund Contribution: The Owner agrees to contribute \$20,000 to the City's Stormwater Fund for the sole purpose of future planting of trees and other vegetation in the Tripps Run and Four Mile Run watershed, such as rain gardens or streetscape plantings, as approved by the City Arborist.
- vii. Installation of Vegetation: The Owner agrees that the vegetation installed for the project will consist of native and regionally adapted species with a majority being from the City's list of recommended plants. Final sizes, species and placement will be determined at Site Plan Approval. Plant materials shall be at least the following sizes at installation:
 - i. Evergreen trees (8 to 10 feet in height at planting)
 - ii. Shade trees (minimum 3.5 inch caliper, 16 feet in height at planting on W Broad Street and minimum 2.5 inch caliper otherwise)
 - iii. Shrubs (minimum 24 inches)

The timing of installation of vegetation shall be determined during the Site Plan Approval. The City Arborist may allow modification to the timing of installation based on the planting season, availability of plant materials, or weather, which may not permit installation of plant materials and/or street trees by the required timing.

- 12. Affordable Housing Contribution: The Owner agrees to provide affordable housing on the following terms:
 - i. The Owner will provide affordable dwelling units ("ADUs") in

the project equal to six (6) percent of the total number of dwelling units (rounded up to the nearest whole number) actually constructed. The proportion of ADUs will follow the same proportionate mix for the market rate units in the project. Subject to approval by the City Manager, the Owner reserves the right to provide ADUs in the project equal to five (5) percent of the total number of dwelling units (rounded up to the nearest whole number) actually constructed with 50% of the ADUs as efficiency units and 50% of the ADUs as two-bedroom units, rounded up to the nearest whole number. The ADU size will be in keeping with the typical unit size in the project for each similar unit type. The ADUs will be dispersed throughout the project. If the Owner provides parking for market-rate units, the Owner shall provide at least one parking space for each comparable ADU unit. If a parking fee is imposed, the same parking fee shall apply to comparable ADU units. The Owner shall have the right to require the payment of security deposits and other deposits or fees for ADU units that are also charged to market-rate Units with the exception of amenities fees. Tenants of the ADUs shall have access to the same amenities as market rate tenants.

- ii. The Owner agrees to record Restrictive Covenants among the land records of the Clerk of the Circuit Court of Arlington County, which shall define terms and conditions of the ADUs as such terms and conditions are agreed to in these Voluntary Concessions regarding issues including, but not limited to, price control periods and owner/renter occupancy and the matters agreed to in these voluntary concessions. These Covenants shall run with the land and be an encumbrance on the ADUs. The Covenants shall be recorded with the City's land records in Arlington County, after certification by the City Manager of their conformance with these Voluntary Concessions, and evidence of such recordation will be provided to the Zoning Administrator before a Certificate of Occupancy is issued for any dwelling unit in the project.
- iii. The Owner will rent the ADUs directly or through its designated agent to qualified tenants, as determined by the City. The City will regulate and establish ADU qualification priorities.
- iv. The monthly rent for the ADUs will be set by the Housing Commission with reference to the U.S. Department of Housing and Urban Development ("HUD") Washington Primary Metropolitan Statistical Area ("PMSA") area median household income ("AMI"). The ADU's shall be offered for rents that are affordable to households whose income is no more than 60% of HUD PMSA AMI. Such rents, subject to changes

permitted by this **Voluntary Concession 12(iv)** will be in effect for the life of the Project. ADU monthly rent shall include an additional amount as calculated by the percentage increase in AMI, but not less than the original ADU monthly rents listed above.

- v. If any ADU rental units are marketed for sale as individually and separately owned condominiums within 20 years after the certificate of occupancy is issued for the residential building, then such ADU units will become home ownership units subjected to the conditions in **Voluntary Concession 12(vi-vii)** below. The City will be notified a minimum of 120 days prior to the sale of the first ADU condominium unit. All ADUs that the Owner desires to sell will be made available for sale within 6 months after the 120 notice. Tenants of individual ADU units will be given the right to purchase their individual unit at prices established under **Voluntary Concession 12(vii)**. ADU tenants opting not to purchase will receive relocation benefits from the Owner as outlined in the City of Falls Church Voluntary Relocation policy.
- vi. If sold as a condominium, the Owner agrees to use commercially reasonable efforts to reduce and minimize condominium fees for such ADUs as allowed by the Virginia Condominium Act and applicable law. Upon written notification by the Owner (as outlined by the City) that an ADU is available for sale, the City or its designee will have the right of first offering to purchase the for-sale ADU for a 60-day purchase offer period following delivery of such written notification to the City Manager. In the event the City does not exercise such right to purchase the ADU or ultimately to close on the sale of the ADU, the ADU shall be offered for sale exclusively to City qualified and designated non-profit organizations for a period of 30 days.
- vii. In the event that the ADU is not sold as outlined above, the Owner will be entitled to sell the ADU without further restrictions at market rate. Net sale proceeds received by the Owner in excess of the ADU price will be divided equally between the City and the Owner. The Owner agrees that the ADU sales price will be set by the Housing Commission with reference to the HUD PMSA AMI at a sales price that are affordable to households whose income is no more than 65% of HUD PMSA AMI.
- viii. The ADU sales price will include an additional amount as calculated by the percentage increase in HUD median income at the time building permits are issued, but not less than the original sales prices listed above. The limitations on sale of ADUs will apply for a period of twenty years following the

initial sale and with resale within that first twenty years of each subsequent ADU owner's date of purchase.

- ix. ADU tenants/owners will have the same duties, rights and privileges as all other tenants/owners in the project, except as such ADU duties, rights and privileges are expressly altered by these voluntary concessions.
- x. A minimum of one of the ADU units shall be accessible as defined by federal law. Additionally, as provided by federal law, all ADU and market-rate units shall be ADA adaptable.
- xi. The Owner will comply with all applicable fair housing laws.
- xii. Prior to issuance of the first residential occupancy permit for the project, and upon the written agreement of the City, the Owner may make a cash contribution to the City's housing trust fund in lieu of providing some or all of the ADUs described in this Voluntary Concession. The amount of the cash shall be mutually agreed upon by the City and the Owner. If the City and the Owner cannot mutually agree upon a contribution amount, then the Owner will provide ADUs in conformance with this Voluntary Concession.

- 13. Libraries, Parks and Recreation. In return for various benefits to the Owner granted through the special exception process and to ameliorate the reduction of open space in the City and increase in residents resulting from the Special Exception Approval, the Owner agrees to increase the sustainability of its project by contributing to the City's libraries and parks. The Owner agrees to provide a contribution to the City of \$500 per residential unit (excluding ADUs) in support of community improvements and future planned upgrades to City libraries and City owned Parks in the area. The total contribution will be paid prior to issuance of the first residential certificate of occupancy.
- 14. Publically Accessible Amenities. During the site plan review process, the Owner shall prepare and submit for the City's review and approval a plan for managing public access to the plaza between the office and multi-family buildings and the residential building lobby (the "Public Access Plan"). The Public Access Plan for the plaza shall include wayfinding signage, permitted hours of public use, and processes and procedures for public and private events in the space (including a point of contact in charge of space). The Owner reserves the right to create rules and regulations for use of the space related to public safety and compatibility with the residential and office users of the building. The initial hours when the space is open to the public shall be 8:00a.m.-9:00p.m. Sunday-Thursday and 8:00am-11:00pm Friday-Saturday. However, the Owner reserves the right to open the space to the public outside of those hours in its sole discretion. Further, the hours when the space is open to the public may be modified with the written approval of

the City Manager, upon a demonstration that such change provides a benefit to the public or is necessary to preserve the health, safety, and welfare of tenants or residents of the project. The Owner further agrees to maintain the public amenities at its own cost, but reserves the right to charge a fee to cover direct costs and expenses related to public and private events in the space.

15. Lighting: The Owner agrees that all exterior lighting for the Subject Property shall comply with the City Ordinances with respect to spill over to residential neighborhood north and east of the project, and exterior lighting shall be shielded and directed away from any adjacent residential property. The lighting plan for exterior lighting on Lawton Street will incorporate dark sky lighting principles in accordance with the standards of the International Dark Sky Association.

16. Lawton Street Improvements.
 - i. Balconies. Residential units facing the Lawton Street frontage and adjacent to the 107 Lawton Street property shall not have accessible balconies.
 - ii. Outdoor Seating. Outdoor seating shall be prohibited at the intersection of E. Broad Street and Lawton Street.
 - iii. Transformer Screening. The proposed transformers shown on the CDP shall be screened from view at the street level.
 - iv. Traffic Calming and Permit Parking. Prior to issuance of the first certificate of occupancy for any space in the building, the Owner agrees to contribute \$50,000 to the City for its use in installing traffic calming measures on Lawton Street and creation of a parking permit program for residents of Lawton Street.
 - v. Signage. No project or retail signage will be installed on the Lawton Street frontage.
 - vi. Additional Landscaping. Prior to site plan approval, the Owner shall coordinate with the owners of 102 Lawton, 107 Lawton, and 201 E. Broad on additional screening landscaping on their properties. The final screening landscaping selected shall be contingent upon agreement by both parties and the written permission of the owners of 102 Lawton, 107 Lawton, and 201 E. Broad for the Owner to install the agreed upon landscaping.

17. Northern Façade
 - i. Garage Connection. The Owner shall apply for building code modifications to permit a pedestrian connection and ground floor openings connecting the parking garage to the adjacent City owned parking lot. If approved by the City, the Owner shall install said connections and openings. If the City denies the proposed building code modification, the Owner shall be relieved

of the obligation to provide said connection and openings. Provision of the garage connection, northern plaza access, and pedestrian connection to N. Washington Street is contingent upon the Owner receiving all necessary easements from adjacent property owners, at no cost to the Owner, to permit the construction and use of said improvements.

- ii. At-Risk Windows. The Owner shall apply for a building code modification to permit windows on the north side of the building in locations adjacent to the northern property line. If approved, said windows shall be at-risk and subject to removal at the Owner's sole cost if the adjacent property to the north is constructed.

18. Construction Management:

- i. Construction Parking and Staging Plan: Prior to issuance of any demolition and/or building permits the Owner agrees to prepare, submit, and obtain the City Manager's approval of a demolition and staging plan for the project. All demolition and construction of the project shall be done in conformance with the approved demolition and staging plan. Once a contractor has been selected for the project, the Owner will prepare a Construction Parking Plan and a Construction Traffic and Staging Plan to be enforced by the Owner for the entire construction phase of the project, and to obtain the City Manager's approval of the plan as providing sufficient parking or other transportation services for working to the site, and not having an adverse impact on traffic safety, prior to the issuance of any building permit for the project. The Owner acknowledges and agrees that violations of these Plans during construction can result in a Stop Work Order and other enforcement measures by the City.
- ii. Community Liaison During Construction: The Owner agrees to identify a person who will serve as liaison to the community throughout the duration of construction. This individual shall be on the construction site throughout the hours of construction, including weekends. The name and telephone number of this individual shall be provided in writing to residents, property managers and business owners whose property abuts the site, and to the Zoning Administrator, and shall be posted at the entrance of the project. Once a contractor has been selected for the project, the Owner will work with the City staff to prepare a construction management plan. The plan shall include a construction parking plan, construction traffic and staging plan and other required plans for the life of the construction phase of the project. The plan must be approved by the City Manager, or City Manager's designee, prior to commencement of any work on the site, including demolition.

- iii. Excavation Monitoring: The Owner agrees to continuously monitor for soil movement and structural damage to adjacent structures during and after excavation for the project. Structures within a distance equivalent to or less than the depth of the excavation plus 10 feet, including at a minimum 107 Lawton, 201 E. Broad, 102 Lawton, 130 N. Washington and 124 N. Washington, will be surveyed by the Owner for pre-development conditions and compared to post-development conditions. For such structures, the Owner agrees to provide insurance coverage for damage caused by excavations or construction activities, as independently verified by a third party engineering consultant provided by the Owner. In no way will this provision limit the liability of the Owner or its contractors for damages caused by construction activity.
- iv. Sidewalk Accessibility: The Owner agrees to maintain safe pedestrian walkways throughout construction and thereafter, and to ensure that such walkways are, at all times, separated from street traffic. Sidewalks shall not be completely closed on either side of the street, unless the City Manager or his designee approves such closing, after finding that the Owner (1) cannot reasonably provide such a pedestrian walkway, (2) will provide clear signs and access to the sidewalk on the other side of the street, and (3) will manage the closure so that the pedestrian walkway is not closed for more than 15 consecutive days.
- v. Pest Control and Plan: The Owner agrees to contract with a certified pest control company licensed to do such business in the Commonwealth of Virginia for a thorough extermination of any pests and/or rodents that may be present on the Subject Property and provide a containment plan prior to the start of demolition work and/or any other land disturbing activities, and throughout construction. The pest containment plan is subject to review and approval by the Building Official prior to issuance of a demolition permit.

- 19. Bicycles: The Owner shall provide secure bicycle storage facilities consistent with those shown on the CDP for both residential and commercial uses of the project. The Owner agrees that should the City join a "Bike Share" program, the Owner will convey an easement, if needed, for the City to place a bike share facility at an appropriate site along the East Broad Street or North Washington Street frontage of the site. Further, the Owner agrees to provide an annual financial contribution equal to the actual cost of operation and maintenance of the "Bike Share" facility after its installation up to a maximum of \$20,000 annually. The annual financial contribution will be made every year after installation of the "Bike Share" facility for the life of the project or until the discontinuation of the "Bike Share" facility at the Subject Property. The Owner will make the required contribution annually on

or before the last day of the month in which the “Bike Share” facility was installed, with the first contribution due on or before the last day of the month in which installation occurred (for example if installation occurs in March 2019, then the first payment would be due by March 31, 2020 and annual contributions would be due by March 31 of subsequent years).

20. City Parking Lot: Prior to issuance of the first certificate of occupancy for the project, the Owner shall install a new curb line along the southern lot line of the City parking lot, restripe impacted parking spaces, and install landscaping consistent with the improvements shown on the CDP. Improvements to the City lot are expressly contingent upon receipt by the Owner of all permissions and easements from the City, adjacent owners, and other parties that are necessary to complete the contemplated work.

21. Other terms and Conditions
 - i. Owner acknowledges that the Special Exception as granted, run with the land and they are not transferable to other land.
 - ii. Owner acknowledges that if granted, the Special Exception will be contingent upon the conditions noted above, and shall not relieve the Owner from compliance with the provisions of all applicant ordinances, regulations, or adopted standards.
 - iii. Owner acknowledges that if granted, the Special Exception shall automatically expire, without notice, thirty-six (36) months after the date of approval unless the use has been established or construction has commenced and been diligently pursued, in accordance with Division 3. Section 48-90. (d), (6) of the City of Falls Church Zoning Ordinance.
 - iv. Prior to approval of a final site plan in conformance with these Voluntary Concessions and the CDP or upon expiration of the Special Exception, the Owner may continue to use the Subject Property and existing improvements for all permitted uses in the B-2 District without triggering the commitments of this Special Exception and Rezoning. The current improvements and permitted uses shall be deemed conforming. The Owner may continue to maintain, repair, and upgrade the existing improvements, but shall be prohibited from expanding the existing improvements. Additionally, if prior to approval of a final site plan in conformance with these Voluntary Concessions and the CDP or expiration of the Special Exception any or all of the existing improvements are destroyed or damaged by any casualty that is not intentionally caused by the Owner, it may, in the Owner's sole discretion, be reconstructed as it currently exists or may be developed in accordance with the CDP and Voluntary

Concessions.

- v. Site plan approval is defined as approval of the site plan for the subject property by the Planning Commission pursuant to Section 48-1142 of the Zoning Ordinance. Owner shall apply within 90 days of that Site Plan approval for associated administrative staff approvals and related bonds using good faith efforts to complete these approvals in a timely manner. There may be consideration of one extension of three (3) months for the above timeframe at the discretion of the Planning Director/General Manager of the Department of Development Services (DDS).
- vi. The City of Falls Church Commissioner of Revenue and/or his designated staff shall be provided access to the residential portions of parking garage for inspection of window stickers related to personal property taxes for vehicles. In the event the access methods are changed or updated the Commission of Revenue shall be provided notice within thirty (30) calendar days.
- vii. Timing of Commitments. Notwithstanding the foregoing, upon demonstration that despite diligent efforts or due to factors beyond the Owner's control commitments specified in these Voluntary Concessions have been delayed beyond the timeframes specified, the City Manager may agree to a later date for completion of said commitments.
- viii. Should the Owner sell its interest or a portion thereof, rights, approvals, or convey a controlling interest to their respective corporations or similar legal entity, any purchaser of such interests, rights, approvals, or controlling interest shall be bound by the terms and conditions contained herein.
- ix. Owner voluntarily submits the foregoing concessions, terms, and conditions to the City Council to be incorporated by reference within the Resolution for the Special Exception, should City Council grant the application for Special Exception.
- x. The Owner acknowledges, understands and agrees that the property shall only be developed in accordance with the Special Exception as granted.

Broad and Washington, LLC

By: _____

Name: _____

Title: _____