

HIRSCHLER DRAFT PROFFER 2-24-23

VOLUNTARY PROFFER STATEMENT

Applicant: KEG Associates III, LLC (“Applicant”)
33225 Constitution Highway
Locust Grove, Virginia 22508

Owners: See **Schedule 1** (collectively the “Owner”)

Representative: Charles W. Payne, Jr.
Hirschler
725 Jackson Street, Suite 200
Fredericksburg, Virginia 22401
Phone: (540) 604-2108
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Project Name: “Wilderness Crossing” (“Project”)

Property: See **Schedule 2** (collectively the “Property”)

Rezoning Request: From Agricultural (A), Industrial (I-2), Residential (R-1), Commercial (C-2), and Rural (RU) to Conditional Rezoning -Planned Development – Mixed Use (PDM)

Date: February 24, 2023

File No.: REZ 22-03

I. General Information.

- A. The Applicant (which includes future owners, assignees and successors) hereby agrees that the development of the Property, subsequent to approval of the rezoning application to which these proffers are attached, will be in conformance with that certain generalized development plan titled “Generalized Development Plan – Wilderness Crossing” prepared by Sullivan, Donahoe & Ingalls, dated May 11, 2021, as last revised March 2023, and marked as **Exhibit A** (the “GDP”), and that certain design guidelines manual titled “Wilderness Crossing, A Division 13-Planned Development Mixed Use (PDM) Community Design Guidelines Manual” dated March 2023, prepared by Land Planning & Design Associates, and marked as **Exhibit B** (the “Design Guidelines”).

- B. These conditions (“Proffers”) are voluntary and reasonable in accordance with Sections 15.2-2298 and 15.2-2303, et al. of the *Code of Virginia* (1950), as amended, and Section 70-193, et al. of the County of Orange (“County”) zoning ordinance, as amended. The headings of the Proffers set forth below have been prepared for convenience or reference only and will not control or affect the meaning or be taken as an interpretation of any provision of the Proffers. The Proffers are the only proffered conditions offered in this conditional rezoning application. The Proffers will be effective only upon the County’s full and final approval (including any applicable appeal periods) of rezoning application REZ 22-03 to reclassify the Property to a PDM zoning district. Any prior proffers (whether of record or not) affecting or encumbering the Property are hereby superseded by the Proffers, and will therefore be void and of no further force and effect upon said approval.

II. Land Use.

- A. **General Development.** The Property will be developed in conformance with the GDP. For purposes of the GDP, all proposed parcel and lot lines, parcel and lot sizes, open spaces, building envelopes and footprints, parking areas, access points, building sizes, waste management areas, building locations, public road locations, private driveway, road and travel way locations, interparcel connectors, waste facilities, RPAs and wetland areas, utility resources and locations, storm water management facilities, open spaces and dimensions of undeveloped areas may be adjusted, reconfigured and/or amended from time to time by the Applicant at site or subdivision plan stages to address final engineering, and design requirements or compliance with federal or state agency regulations including, but not limited to, VDOT, DEQ, Army Corps of Engineers, etc., and compliance with the requirements of the County’s applicable development regulations and design standards. Notwithstanding the foregoing, any material adjustments to the GDP will be subject to the approval of the County’s Zoning Administrator, and in no event will approved adjustments to the GDP relieve the Applicant and Owners from providing any of the remaining Proffers.
- B. **Uses.** The Property will be developed under the Planned Development Mixed Use Zoning District (PDM) and will include a mix (all or some) of the uses described in the attached Wilderness Crossing Land Use Chart marked as **Exhibit C** (“Land Use Chart”), which is attached hereto and incorporated herein by this reference.

In addition, the Project will be subject to the following conditions:

(1) Subject to the conditions herein, no more than a total of 4,200 residential units will be developed on the Property and will include at least two (2) or more of the residential uses identified in **Exhibit C**, all in conformance with the GDP and Design Guidelines, as may be applicable, (collectively the “Residential Uses”). Notwithstanding anything to the contrary under these Proffers, the Applicant may also develop up to 800 additional Residential Units for a total maximum of 5,000

Residential Units (the “Additional Units) if Land Bays X, W, V and/or T are not developed for Commercial/Industrial Uses (as defined below) within the timeline limitations described below under Section II B (4). The Additional Units will be applicable only to the aforesaid land bays and the Additional Units may be constructed on one, some or all of the said land bays; and

(2) All age restricted uses developed within the Project will include age-restricted units that qualify as “housing for older persons” in accordance with the criteria set forth in Code of Virginia section 36-96.7, et seq., as amended. Further, prior to construction of the first age restricted unit, restrictive covenants will be prepared and recorded among the land records of Orange County, Virginia, and encumber a portion(s) of the Property for said purposes. The aforesaid restrictive covenants will be recorded prior to subdivision plat recordation and define the qualification for initial and subsequent occupancy of any age restricted use associated with the Project and will further restrict households to include at least one person who is age 55 years or older. Additionally, a covenant will be placed on the said portion(s) of the Property for age restricted uses that further prohibits any resident age 18 years or younger to reside within any age restricted use constructed on the Property for a period of time exceeding 30 days within any six-month period; and

(3) Commercial and industrial uses to be developed on the Property will include a mix (all or some) of the commercial and industrial uses identified in **Exhibit C**, all in conformance with the GDP and Design Guidelines, as may be applicable, (collectively the “Commercial/Industrial Uses”).

(4) Notwithstanding anything to the contrary under these Proffers, Land Bays X and W, as shown on the GDP and in the Design Guidelines, will not be developed for Residential Uses from the period commencing after final rezoning approval and expiring December 31, 2030, and Land Bays V and T will not be developed for Residential Uses from the period commencing after final rezoning approval and expiring December 31, 2035 (collectively the “Residential Use Restriction Period”).

(5) The GDP describes general locations of land bays and proposed uses within said land bays. Notwithstanding the proposed uses designated on the GDP and in the Design Guidelines, during the development phasing of the Project, the Applicant may relocate or swap uses within the various land bay areas to address market changes and development and design requirements over the life of the Project, subject to the density restrictions provided under Section II B (1) and the development restrictions provided under Section II B (4), provided that any material relocation or swap of uses will be in accordance with the Germanna Wilderness Area Plan (“GWAP”), all as determined by the County’s zoning administrator.

C. **Proffered Dedications & Improvements.** In accordance with these Proffers, the Applicant agrees to the following proffered dedications and improvements:

(1) public dedication to the County of 40 acres of land for a regional park to be located within one of the land bays described in the Land Use Chart, which park area, prior to said dedication, will be cleared and graded (unless otherwise requested by the County) have access to public and private utilities (connections to include at the applicable boundary line of the site), and will have access to and from a public road (collectively the “Dedicated Park Area”); and

(2) the Applicant agrees to preserve and not develop certain open spaces areas within the Project, all as depicted on the GDP, which includes approximately 35% (approximately 900 acres which is not inclusive of the designated reservoir areas on the GDP) of the of the Project (the “Preserved Open Space”). Notwithstanding the foregoing, the Applicant may utilize the Preserved Open Space for the following purposes: extension of utilities, access roads and travelways, community gardens, reservoir, lake and/or pond areas, wetland mitigation, undertaking stormwater and LID measures, maintenance of existing and subsequent obligations of the Project, any environmental remediation or mitigation, providing Project amenities including without limitation trails, share use paths, docks, and community gathering areas, dog parks, limited parking, temporary grading and ingress/egress for all of the foregoing, and miscellaneous temporary impacts typical in developing property within the County (collectively all of the foregoing known as “Permitted Actions”); and

(3) public dedication to the County of 32 acres of land for a future school site to be located within one of the land bays described in the Land Use Chart (the “Dedicated School Site”). The Dedicated School site will be cleared and graded (unless otherwise requested by the County) prior to the public dedication to the County, have access to public and private utilities (connections to include at the applicable boundary line of the site), and will have access to and from a public road; and

(4) public dedication to the County of 7 acres of land for future public safety facility site to be located within one of the land bays described in the Land Use Chart, which public safety facility site, prior to said dedication, will be cleared and graded (unless otherwise requested by the County) have access to public and private utilities (connections to include at the applicable boundary line of the site), and will have access to and from a public road (“Dedicated Public Safety Facility Site”); and

(5) all of the aforesaid land dedications, as applicable, will occur prior to the expiration of Phase 1 (as defined below) of the Project, except and unless the County requests that the dedications occur during later phases of the Project. Prior to said dedications, the Applicant will provide the County copies of all development and due diligence reports relating to said dedications to the County, including all environmental reports and any required remediation described below under Section II G 2.

D. Cash Proffers. For purposes of mitigating potential impacts of the Project on certain County services, the Applicant agrees to make the following cash proffers:

- (1) a total of \$6 million dollars in cash for school, public safety and parks and recreation public facilities (collectively the “Cash Proffers”). The Cash Proffers will be paid in full prior to the issuance of the 1500th certificate of occupancy permit for a single family detached and/or single family attached home.
- (2) The County will have the discretion to apply the Cash Proffers to any or all of the aforesaid public facilities.
- (3) The Cash Proffers will be paid as follows:
 - (a) \$2 million upon the County’s issuance of the 500th certificate of occupancy permit for a single family detached and/or single family attached home;
 - (b) \$2 million upon the County’s issuance of the 1000th certificate of occupancy permit for a single family detached and/or single family attached home; and
 - (c) \$2 million upon the County’s issuance of the 1500th certificate of occupancy permit for a single family detached and/or single family attached home.
 - (d) Cash Proffers are only applicable to the issuance of certificate of occupancy permits for single family detached and single family attached homes (combination of) and the aforesaid unit counts do not apply to any other Residential Uses.

E. Project Amenities. All amenities for the Project are as generally described and depicted under the Design Guidelines. The Applicant will provide at least three (3) community (private) club houses and pools within the Project, and the trail system as generally shown on the GDP and in the Design Guidelines. In addition, each residential land bay will include a pocket park, all as generally described in the Design Guidelines.

F. Phasing. The Applicant’s anticipated planning for the first ten (10) years of the Project (“Phase 1”) includes the following development and infrastructure phasing plan, which is subject to future adjustments due to market changes and demand:

- (1) Construction of Goldmine Parkway, including near term use as a construction access road for the development of the Project;
- (2) Construction of proffered Phase 1 Transportation Improvements;
- (3) Construction of approximately 1500 Residential Units and 150,000-200,000 SF of Commercial Space;

- (4) Extension and construction of Rapidan Service Authority (RSA) water and sewer utilities to support Phase 1 of the Project;
- (5) Mine Evaluation & Mitigation described below under Section II G 2.;
- (6) Dedication of the Dedicated Park Area, Dedicated School Site and Dedicated Public Safety Facility Site, except and unless the County requests that the dedications occur during later phases of the Project; and
- (7) Construction of applicable amenities (to extent of the progress of Project development).

G. Other Development Requirements.

- (1) Reservoirs/Impoundment: The Project identifies potential reservoir locations in the areas generally shown on the GDP. The Applicant will consult with the County, applicable government agencies, RSA, regional authorities and/or available public water providers for purposes of determining whether a reservoir is necessary for the subject area. Any approved reservoir/impoundment will include at least the following elements, except as otherwise required by applicable permitting agencies:
 - a. Rapidan Tributary Impoundment: A particular tributary leading directly to the Rapidan River, the mouth of which is located approximately 6,000 feet west of the Spotsylvania County line on the Rapidan River with a potential impoundment location to include a maximum water surface elevation of 250 feet.
 - b. Wilderness Run Tributary Impoundment: A particular tributary leading directly to Wilderness Run, the mouth of which is located approximately 3,000 feet south of the Rapidan River with a potential impoundment location to include a maximum water surface elevation of 248 feet.
 - c. Construction of the aforesaid impoundments are subject to review, approval, and permit issuance from the Department of Environmental Quality, the United States Army Corps of Engineers, Orange County, the Virginia Department of Conservation and Recreation, as all may be applicable, and other applicable governmental agencies.
 - d. The Project will provide access to the embankment and upland inundation areas for the purpose of construction and clearing of the impoundment areas. Improvement of the provided access to support construction activities is not a requirement of the Project, though access will be granted to improved roadways to the extent that they exist at the time of construction of the embankment.
 - e. The Applicant will dedicate land for a future reservoir location so long as said location has been permitted, funded and approved for construction by all applicable governmental agencies, and satisfies all of the aforesaid requirements listed above.

- (2) Prior Mining Assessment and Management Measures: Prior Mining Assessment and Management Measures: There are documented and undocumented existing orphaned/abandoned mines on the Property (collectively known herein as the “Mines”). The Applicant agrees to assess the Project site for contamination related to the Mines. The Applicant further agrees to utilize the Virginia Department of Environmental Quality (DEQ) Voluntary Remediation Program (VRP), and/or other equivalent regulatory oversight and grant programs in order to complete the aforesaid evaluation and to develop and execute a Remedial Action Plan (RAP) for the Project. The Applicant will commence the VRP process the sooner of (i) within twelve (12) months of rezoning approval, or (ii) prior to filing the initial site plan for the Project.
- (3) Public Utilities. The Applicant agrees to coordinate with the RSA or other applicable public utility agency for purposes of developing a Master Public Utility Plan or other similar plans to extend public water and/or sewer to serve the Project.
- (4) Historic Pilgrim Church. For purposes of mitigating any impact of the Project to the historic Wilderness Pilgrim Church (the “Church”), the Applicant will buffer the perimeter of the Church and construct a new parking lot and applicable road improvements adjacent to the Church (to be constructed at same time), all as generally depicted on the attached **Exhibit F**. Within ninety (90) days after site plan approval for the development of Tax Map Parcel ____, which includes a portion of the buffer area and parking lot shown on said **Exhibit F**, the Applicant agrees to convey, in fee simple, said portion of Tax Map Parcel ____ to the Church, all as shown on said exhibit. In no event will the Church incur any cost or expense for such conveyance or construction of said parking lot or other improvements described herein.
- (5) Allowable Building Heights. The Applicant may develop and construct certain Residential Uses and Commercial/Industrial Uses that exceed the height restrictions provided under the PDM zoning district, all as more particularly described on **Exhibit E**, which allow certain Residential Uses and Commercial/Industrial uses to construct buildings up to 60 feet and certain Commercial/Industrial Uses to construct buildings up to 80 feet. A building’s height will be measured from the vertical dimension of a structure as measured from the average elevation of the finished grade at the front line of the building to the highest point of the roof of a flat roof, the deck line of a mansard roof, or the mean height level between eaves and ridge (mid-line of the roof) for a gable, hip, or gambrel roof. This height limitations shall not apply to parapets, screening, spires, belfries, cupolas, antennas, communication towers, air cooling ventilation equipment, ventilators, or other appurtenances usually required to be placed on the roof level and not intended for human occupancy nor does it apply to any utility infrastructure facility.

Electric transmission, distribution and substation facilities, and towers (water or other) shall be excluded from these maximum height requirements.

- (6) Development Limitations for Certain Industrial Uses. Notwithstanding anything to the contrary under these Proffers, the Applicant will develop no more than five million square feet (5,000,000 SF) of industrial data center and warehouse/distribution building space, which limitation excludes accessory uses and utilities (private and public) that support said industrial uses.
- (7) Buffering and Setbacks. The Applicant will setback buildings and provide landscape buffers and/or preserve current trees and vegetation areas along the frontage of the Project that adjoins Route 3, all to the extent owned and controlled by the Applicant, and as generally depicted on the GDP and Design Guidelines. The Applicant further agrees to utilize berms as a component to its buffer plan so long as said berming does not adversely impact grading of the subject area and the overall landscaping and buffer plan.
- (8) Industrial Building Setbacks. All industrial buildings developed and constructed on the Property will be located at least fifty feet (50') from any public road and one hundred feet (100') from the property line of any primary, residential use, and include within all said setbacks at least twenty-five feet (25') of buffer area, whether landscaped or preserved tree and vegetation buffered areas.
- (9) Industrial Traffic. Prior to final site plan approval for any industrial use, the Applicant will submit a plan to the County and VDOT for purposes of controlling the routes and timing for said routes of industrial truck traffic through the Project.

III. Transportation. For purposes of developing the Property and subject to the final review and approvals from both the Virginia Department of Transportation (“VDOT”) and the County, the Applicant will construct certain transportation improvements (collectively the “Transportation Improvements”) in general accordance with the GDP and that certain transportation impact study titled “Wilderness Crossing Development, Orange County, Virginia”, dated May 8, 2020, as last revised June 1, 2022 (and Trip Generation Memorandum dated November 14, 2022), and prepared by Gorove Slade, attached hereto and marked as **Exhibit D** (collectively the “TIA”). As noted in the TIA, Route 3 is considered as running north-south, and intersecting roads, including Route 20, are considered as running east-west. Additionally, any reference to “Wilderness Parkway” in the TIA is to be considered a reference to “Goldmine Parkway” as provided herein. Notwithstanding the foregoing, should any of the Transportation Improvements be constructed by others, then the Applicant will have no further obligations with respect to such improvements. All Transportation Improvements will be constructed, as required, pursuant to the following phases:

- A. **Phase 1 Transportation Improvements.** Phase 1 improvements (“Phase 1”) will be constructed in conformance with the GDP and as provided in the “Phase 1 / 2026 Future Conditions with Development” scenario of the TIA. In accordance with the Phase 1 program under the TIA, the combined uses on the Property under Phase 1 will not exceed 26,937 vehicles per day (“VPD”), as calculated by the 10th edition of the Institute of Transportation Engineers’ (“ITE”) Trip Generation Manual. As part of the review of each site plan or subdivision plan application during Phase 1, as applicable, the Applicant will provide the County a running tabulation of the expected cumulative VPD generated by the Project. All listed improvements under Phase 1 (“Phase 1 Improvements”) will, unless stipulated otherwise, be constructed before the Project cumulatively exceeds 26,937 VPD, as calculated by the aforesaid Trip Generation Manual.

The Phase 1 Improvements include the following:

(1) Route 3 at Vaucluse Road:

- a. The Applicant will convert the existing intersection to a Restricted Crossing U-Turn (“RCUT”), as shown in the GDP.

(2) Route 3 and Post Office Road:

- a. The Applicant will reconfigure the intersection and construct a RCUT as shown on the GDP.
- b. The Applicant will construct a signal at the main RCUT intersection and northern (Rte. 3 NB) u-turn median break.

(3) Route 3 at Lakes of the Woods Way / Goodwin Drive:

- a. The Applicant will construct a second westbound right turn lane (Goodwin Drive WB) at the subject intersection in the event that VDOT proceeds with the reconfiguration of the intersection to a RCUT.
- b. The Applicant will construct a second eastbound right turn lane (Lake of the Woods Way EB) at the subject intersection in the event that VDOT proceeds with the reconfiguration of the intersection to a RCUT design.
- c. In the event that VDOT proceeds with the reconfiguration of the intersection to a RCUT design, the Applicant will construct a second northbound u-turn lane (Rte. 3 NB) at the RCUT’s northern (Rte. 3) u-turn median break.
- d. In the event that VDOT proceeds with the reconfiguration of the intersection to a RCUT design, the Applicant will install a signal for the

main RCUT intersection, its northern (Rte. 3 NB) u-turn median break, and its southern (Rte. 3 SB) u-turn median break.

(4) Partnership Way at Goodwin Drive:

- a. The Applicant will restripe the eastbound approach (Goodwin Drive EB) to provide a left/thru configuration.
- b. The Applicant will convert the subject intersection from a two-way stop-control operation to a four-way stop-control operation, unless and except it is determined by VDOT that a four-way stop control operation is not warranted for the said intersection in which event the Applicant would be relieved from converting the subject intersection as aforesaid.

(5) Route 3 at Flat Run Drive / Germanna Heights Drive:

- a. The Applicant will modify the existing signal and convert the westbound approach (Flat Run Road WB) to a left, thru/right configuration.

(6) Route 3 at Somerset Ridge Road:

- a. Prior to the submission of the initial site plan for the Project, the Applicant will submit to VDOT for a review a traffic signal timing modification analysis for the subject intersection. In the event that VDOT determines that adjustments to the signal timings are warranted based upon such analysis, then the Applicant will make such adjustments. Should VDOT determine that no timing adjustments are necessary for the subject intersection, then the Applicant would be relieved from having to make the aforesaid adjustments.

(7) Route 3 at Development Entrance 1:

- a. The Applicant will construct a new unsignalized entrance along Route 3 between Post Office Road and Vaucluse Road, all as shown on the GDP. The Applicant will restrict the entrance to left-in, right-in, and right-out movements only.

(8) Route 3 at Development Entrance 2:

- a. The Applicant will construct a new unsignalized entrance along Route 3 between Goodwin Drive and Post Office Road, as shown on the GDP. The Applicant will restrict the entrance to right-in and right-out movements only.

(9) Route 3 at Development Entrance 3:

- a. The Applicant will construct a new unsignalized entrance along Route 3 between Goodwin Drive and Post Office Road, as shown on the GDP. The Applicant will restrict the entrance to right-in and right-out movements only.

B. Phase 2 Transportation Improvements. Phase 2 improvements (“Phase 2 Improvements”) will be constructed in general conformance with the GDP and as provided under the “Phase 2 / 2031 Future Conditions with Development” scenario of the TIA. Consistent with the Phase 2 program under the TIA, the combined uses on the Property under Phase 2 will not exceed 53,846 VPD, as calculated by the 10th edition of ITE’s Trip Generation Manual. As part of the review of each site plan or subdivision plan application during Phase 2, as applicable, the Applicant will provide the County a running tabulation of the expected cumulative VPD generated by the Project. All Phase 2 Improvements will, unless stipulated otherwise, be constructed before the Project cumulatively generates 53,846 VPD, as calculated the Trip Generation Manual.

The Phase 2 Improvements include the following:

(1) Route 3 at Route 20:

- a. The Applicant will reconfigure the northbound approach (Rte. 3 NB) to allow for a single displaced left turn lane, as shown on the GDP.
- b. The Applicant will construct a northbound right turn lane (Rte. 3 NB), as shown in the GDP.
- c. The Applicant will reconfigure the west leg (Rte. 20 EB) of the intersection to accommodate a second eastbound (Rte. 20) left turn lane, as shown on the GDP.
- d. The Applicant will construct a third southbound lane along Route 3 from Goldmine Parkway to just south of Route 20, as shown in the GDP.

(2) Route 3 at Vaucluse Road:

- a. Concurrent with the opening of Goldmine Parkway and pursuant to Proffer III.B.2.6, the Applicant will restrict the entrance to right-in and right-out movements only.

(3) Route 3 at Lakes of the Woods Way / Goodwin Drive:

- a. The Applicant will submit to VDOT for review a traffic signal timing modification analysis for the subject intersection. In the event that VDOT determines that adjustments to the signal timings are warranted

based upon said analysis, then the Applicant will make the adjustment. Should VDOT determine that no timing adjustment be deemed necessary for the subject intersection based upon said analysis, then the Applicant will be relieved from having to make the aforesaid adjustments.

(4) Route 3 at Flat Run Drive / Germanna Heights Drive:

- a. The Applicant will submit to VDOT for review a traffic signal timing modification analysis for the subject intersection. In the event that VDOT determines that adjustments to the signal timings are warranted based upon such analysis, then the Applicant will make such adjustment. Should VDOT determine that no timing adjustment be deemed necessary for the subject intersection based upon said analysis, then the Applicant will be relieved from having to make the aforesaid adjustments.

(5) Route 3 at Somerset Ridge Road:

- a. The Applicant will submit a traffic signal timing modification analysis for the subject intersection to VDOT for review. In the event that VDOT determines that adjustments to the signal timings are warranted based upon such analysis, then the Applicant will make such adjustment. Should VDOT determine that no timing adjustment be deemed necessary for the subject intersection based upon said analysis, then the Applicant will be relieved from having to make the aforesaid adjustments.

(6) Route 3 at Goldmine Parkway:

- a. The Applicant will construct a RCUT, as generally shown on the GDP.
- b. The Applicant will signalize the main RCUT intersection and northern (Rte. 3 NB) u-turn median break, all as shown in the GDP.

(7) Route 3 at Development Entrance 1:

- a. The Applicant will restrict the entrance to right-in and right-out only movements.

- C. **Post Phase 2 Transportation Improvements.** Any required additional transportation improvements will be determined pursuant to future updates of the TIA for purposes of all phases of the Project after the Phase 2 Improvements. The first update to the traffic impact study will be conducted no later than at site or subdivision plan (as applicable) for the Project that would exceed the generation of one hundred percent (100%) of the Phase 2 VPD (53,846 VPD) as calculated

by ITE's Trip Generation Manual. Thereafter, additional updated traffic impact study revisions will analyze subsequent development phases and any applicable improvements relating to the same, and such updates will be conducted for uses that collectively generate a minimum of 20,000 VPD.

- D. Right of Way Dedications:** Through the various phases of development, the Applicant/Owner agrees to dedicate necessary right of way for all Transportation Improvements described herein. Notwithstanding anything to the contrary under these Proffers, in the event the Applicant/Owner, after reasonable efforts, is unable to obtain necessary right of way from other property owners in order to complete the Transportation Improvements proffered hereunder, the Applicant may request that the County, in accordance with applicable law, exercise its condemnation authority to obtain said right of way in order to allow the Applicant/Owner to complete the Transportation Improvements, as may be applicable. In the event the County refuses to exercise said authority, the Applicant will not be required to construct any applicable improvement until the necessary right of way is obtained, and further the Applicant will not be prohibited from proceeding with the development of the Project.
- E. Pedestrian Access.** The Applicant will provide pedestrian access to, from and within the Project, all as generally described in the GDP and Design Guidelines.

IV. Community Development Authority:

(1) Formation. Subject to the terms herein and recognizing the existing and future infrastructure improvements, the Applicant may propose the formation of a Community Development Authority ("CDA") in accordance with §15.2-5152, et seq. of the Code of Virginia 1950, as amended (the "Code"), and applicable County requirements. After legal formation, the Applicant may request that the CDA issue revenue bonds for purposes of financing the construction of certain infrastructure improvements relating to the Project. Notwithstanding anything to the contrary herein, in no event will the debt issued by the CDA be secured by or a liability of the County, all in accordance with §§§15.2-5103, 15.2-5125, or 15.2-5131, et al. of the Code.

(2) Security for CDA. The revenue bonds issued for the purpose of financing those certain improvements will be secured by the proceeds of a special tax and/or a special assessment on the properties within the boundaries of the CDA district.

(3) Use of CDA Funds. All CDA funds will be utilized for the purposes expressed herein and not for any other purpose. Notwithstanding anything to the contrary under this proffer statement, the CDA financing amount will be finalized prior to the issuance of applicable bonds and in conjunction with final engineering costs relating to proposed infrastructure improvements.

(4) Other Financing Methods. Notwithstanding anything to the contrary under this proffer statement, in no event will CDA funding described under this Section IV be the required,

sole or exclusive private or public funding source for transportation or utility infrastructure improvements required for the development of the Project.

V. Covenants/HOA/POAs. The Applicant, as part of the development of the Property, will encumber the Property with certain declaration of conditions, covenants, restrictions, and easements for the purpose of (a) protecting the value and desirability of the Property; (b) facilitating the planning and development of the development in a unified and consistent manner; (c) providing for and requiring private waste collection facilities and disposal; and (c) providing for the installation, maintenance, and repair for all common area landscaping, onsite amenities, open space, and other common areas. The Applicant will also create a home owners and/or property owners' association(s) as a non-stock corporation under the laws of Virginia that will provide and ensure the following: (i) oversight, management, and structure for services provided, (ii) quality development and construction standards, and (iii) requirements for common area maintenance. All of the aforesaid will be completed and recorded during various phases of the Project. The Applicant also agrees to include the president of the Lake of the Woods Homeowners Association as a member of the Wilderness Crossing Review Board.

VI. Miscellaneous. The following additional miscellaneous proffers will apply to this application:

1. Private Waste Collection . The Applicant agrees to establish a private waste collection system whereby the developer of the Project will contract with a third party vendor to collect waste from all Residential Uses and Commercial Uses. For purposes of offsite disposal of waste in the County's landfill system, the Applicant agrees to coordinate said disposal with the County to ensure that the County has adequate capacity to receive and store waste from the Project.
2. Tax Application. After rezoning approval to PDM zoning district, as provided herein, the Property will not be subject to a new tax assessment until the following occurs: (i) Applicant submits and the County approves either a final subdivision or site plan, as applicable, for a particular section(s) of the Project; (ii) upon the approval of the later of either a final subdivision or site plan, only those particular sections of the Project will be subject to any tax (including if any increase is due to an assessment increase) due to a change in use, and (iii) the remaining portions of the Property will continue paying taxes at the then current use and rate (whether land use or other) until final subdivision or site plans for a change in use are approved for those remaining sections of the Property.
3. Severability. If any term or provision under these Proffers or the application thereof is deemed invalid or unenforceable, the remainder of the Proffers, or the application hereunder of the same, other than those as to which it is held invalid or unenforceable, will not be affected thereby, and thus all remaining Proffers and provisions of the same will be deemed valid and enforced to the fullest extent authorized hereunder and permitted by law.

4. Public Safety Cell Tower Use. The Applicant agrees to coordinate with applicable County public safety departments to ensure there is adequate coverage and access for public safety communications equipment on applicable cell tower facilities constructed within the Project.

VII. Exhibits. All of the following exhibits are included as a material part of these Proffers and attached hereto:

1. “Generalized Development Plan – Wilderness Crossing” prepared by Sullivan, Donahoe & Ingalls, dated May 11, 2021, as last revised September 28, 2022, and marked as **Exhibit A**;
2. “Wilderness Crossing, Design Guidelines Manual” dated November, 2022, and prepared by Land Planning & Design Associates, and marked as **Exhibit B**;
3. Wilderness Crossing Land Use Chart prepared by Land Planning & Design Associates and marked as **Exhibit C**;
4. Wilderness Crossing Development, Orange County, Virginia”, dated May 8, 2020, as last revised June 1, 2022 (and Trip Generation Memorandum dated November 14, 2022), and prepared by Gorove Slade, marked as **Exhibit D**; and
5. Height limitation exhibit prepared by Land Planning & Design Associates, and marked as **Exhibit E**
6. Historic Wilderness Pilgrim Church buffering and parking exhibit prepared by Land Planning & Design Associates, dated February 2023, and marked as **Exhibit F**.

[AUTHORIZED SIGNATURES TO FOLLOW]

WITNESS the following signatures:

APPLICANT:

By: _____

Date: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____

The foregoing was subscribed, sworn to and acknowledged before me this ____ day of _____, 2023, by _____, as _____ for _____.

Notary Public

Print Name: _____

My Commission Expires: _____

Registration No. _____

[SEAL]

OWNER:

By: _____

Date: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____

The foregoing was subscribed, sworn to and acknowledged before me this ____ day of _____, 2023, by _____, as Owner of Orange County Parcel Nos. _____.

Notary Public

Print Name: _____

My Commission Expires: _____

Registration No. _____

[SEAL]

OWNER:

By: _____

Date: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____

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Notary Public

Print Name: _____
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Registration No. _____
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[SEAL]

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[SEAL]

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By: _____

Date: _____

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF _____

The foregoing was subscribed, sworn to and acknowledged before me this ___ day of _____, 2023, by _____ as Owner of Orange County Parcel Nos. _____.

Notary Public

Print Name: _____
My Commission Expires: _____
Registration No. _____
[SEAL]

Schedule 1

List of Owners

- 1) King-Evans Culpeper Property LLC (Parcel 0240000000090);
- 2) KEG Associates III LLC (Parcels 0130000000200, 0130000000190, 0130000000070, 024000000002A, 0240000000020, and 013000000016B);
- 3) Evans King 2 LLC (Parcel 0130000000100);
- 4) Evans King LLC (Parcels 0130000000110, 0130000000160, and 013000000005B);
- 5) Jan King Evans et al (Parcel 0130000000130);
- 6) Charles B. King Jr., et al (Parcels 013000000006A, 013000000006B, 013000000006C, and 0130000000060);
- 7) Jan A K Evans, Trustee et al (Parcels 0130000000030 and 0130000000020);
- 8) Charles B. King, Jr. (Parcel 0140000000010); and
- 9) Jennifer Lee King, Trustee (Parcel 013000000003A).

Schedule 2

List of Properties

Orange County Tax Parcel Map Identification Numbers:

- 1) 02400000000090 (currently zoned R-1 Conditional and C-2);
- 2) 01300000000200 (I-2 Conditional);
- 3) 01300000000190 (currently zoned I-2 Conditional);
- 4) 01300000000070 (currently zoned I-2 Conditional, A, and C-2);
- 5) 0240000000002A (currently zoned A);
- 6) 02400000000020 (currently zoned A) ;
- 7) 0130000000016B (currently zoned A);
- 8) 01300000000100 (currently zoned A);
- 9) 01300000000110 (currently zoned A);
- 10) 01300000000160 (currently zoned C-2);
- 11) 0130000000005B (currently zoned A and C-2);
- 12) 01300000000130 (currently zoned A);
- 13) 0130000000006A (currently zoned currently zoned A);
- 14) 0130000000006B (currently zoned A);
- 15) 0130000000006C (currently zoned A);
- 16) 01300000000060 (currently zoned A);
- 17) 01300000000030 (currently zoned A);
- 18) 01400000000010 (currently zoned A);
- 19) 01300000000020 (currently zoned A);
- 20) 0130000000003A (currently zoned A); and

All of the foregoing consisting in the aggregate of approximately 2,618.131 acres (collectively, the “Property”)

Exhibit A

“Generalized Development Plan”

Exhibit B

“Design Guidelines Manual”

Exhibit C

“Land Use Chart”

Exhibit D

“Transportation Impact Analysis”

Exhibit E

“Height Limitation Exhibit”

Exhibit F

“Church Buffer Exhibit”

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