

Return to:
Office of the City Attorney
22 Lincoln Street
Hampton, Va. 23669
(cjw)

LRSN: 12003841

PROFFER AGREEMENT

THIS PROFFER AGREEMENT (“Agreement”) made this __ day of _____, 20__, by and between GLORIA HIGUERA LOPEZ (the “Grantor”); and the CITY OF HAMPTON, a municipal corporation of the Commonwealth of Virginia (the “Grantee” or the “City”), with an address of 22 Lincoln Street, Hampton City Hall, Hampton, Va. 23669.

RECITALS

- A. GLORIA HIGUERA LOPEZ is the owner of a certain parcel of property located in the City of Hampton, herein known as 1700 E Pembroke Avenue (LRSN Number 12003841), and more fully described on “Exhibit A” (the “Property”).
- B. Grantor has initiated a conditional amendment to the zoning map of the City of Hampton, Virginia, by petition addressed to the Grantee so as to change the zoning classification of the Property from LIMITED COMMERCIAL (C-2) DISTRICT to ONE-FAMILY RESIDENTIAL (R-9) DISTRICT.
- C. Grantor has requested approval of this Agreement.
- D. Grantee’s policy is to provide for the orderly development of land for various purposes, including commercial purposes, through zoning and other land development legislation.

- E. Grantor desires to offer the City of Hampton certain conditions for the enhancement of the community and to provide for the highest quality and orderly development of the Property.
- F. The conditions outlined in this Agreement have been proffered by Grantor and allowed and accepted by Grantee as a part of the amendment of the City Zoning Ordinance and the Zoning Map. These conditions shall continue in full force and effect until a subsequent amendment changes the zoning of the Property; provided, however, that such conditions shall continue if the subsequent amendment is part of the comprehensive implementation of a new or substantially revised zoning ordinance of Grantee.

NOW, THEREFORE, for and in consideration of the approval and acceptance by the City of Hampton of this Agreement, Grantor agrees that she will meet and comply with all of the following conditions in developing the Property. In the event the requested change of zoning classification is not granted by the City, these Proffers shall thereupon become null and void. Grantor, her heirs, successors, assigns, grantees and other successors in title or interest to the Property, voluntarily and without any requirement by or exaction from Grantee or its governing body and without any element or compulsion or quid pro quo for zoning, rezoning, site plan, building permit or subdivision approval, makes the foregoing declaration of conditions and restrictions governing the use and physical development and operation of the Property, and covenants and agrees that this declaration and the further terms of this Agreement shall constitute covenants running with the Property, which shall be binding upon the Property, and upon all persons and entities claiming under or through the Grantor, or her heirs, successors and assigns, grantees, and other successors in interest or title to the Property; namely:

CONDITIONS

- A) Use shall be limited to a 1-family detached dwelling, together with all accessory uses.
- B) The Property shall be developed in substantial conformance with the conceptual site plan entitled “SITE & GRADING LOT 187A BLK 6 FORDHAM CITY OF HAMPTON, VIRGINIA”, last revised September 2, 2024 and prepared by MLS GROUP CONSULTING LLC (the “Concept Plan”), a copy of which is on file with the Community Development Department and has been exhibited to the Hampton Planning Commission and Hampton City Council for illustrative purposes and to provide justification for this rezoning action. Minor changes in the Concept Plan may be made to accommodate environmental, engineering, architectural, topographic or other development conditions, or site/subdivision plan approval requirements as required by applicable law and/or regulations and subject to approval of the Director of Community Development or their designee for consistency with the terms of this proffer. A copy of the final approved Concept Plan shall be placed in the file with the Planning Division of the Department of Community Development and shall supersede any previous Concept Plan.
- C) Development Standards
 - a. The building shall be developed in substantial conformance with the elevations entitled “AMAYA PROPERTIES CORPORATION 3 BDR. SINGLE FAMILY RESIDENCE AT 1700 E. PEMBROKE AVE HAMPTON, VA 23663”, last revised September 1, 2024 and prepared by MLS GROUP

CONSULTING LLC. Seal: Carlos Sierra, P.E. VA REG. #402060870 (the “Elevations”), a copy of which is on file with the Community Development Department and has been exhibited to the Hampton Planning Commission and Hampton City Council for illustrative purposes and to provide justification for this rezoning action. Minor changes in the Elevations may be made to accommodate environmental, engineering, architectural, topographic or other development conditions, or site/subdivision plan approval requirements as required by applicable law and/or regulations and subject to approval of the Director of Community Development or their designee for consistency with the terms of this proffer. A copy of the final approved Elevations shall be placed on the file with the Planning Division of the Department of Community Development and shall supersede any previous Elevations.

- b. Primary and secondary building materials for the front, side, and rear elevations shall be brick, full-face brick veneer, stone veneer, cement fiber board, concrete panels, premium, fade resistant vinyl with a .044" minimum thickness, ground face or polished concrete block, precast or cut stone, engineered wood, wood or composite lap siding, metal or composite panel systems, and/or glass. Acceptable trim materials are PVC and/or vinyl.
- c. Roof materials shall be a 30-year architectural/dimensional asphalt composition shingles.
- d. Ground-mounted HVAC systems shall be screened from the right-of-way and adjacent properties through the use of landscaping or fencing.

- e. Fencing materials shall be PVC, wood composite, and/or decorative aluminum pickets. Other suitable fencing materials of similar quality and complementary to the building architecture may be approved by the Director of Community Development or her designee.
- D) It is understood that all phases of the proposed project shall comply with all ordinances of the Grantee.
- E) Further lawful conditions or restrictions against the Property may be required by Grantee during the detailed Site Plan review and administration of applicable codes and regulations of Grantee by all appropriate agencies and departments of Grantee, which shall be observed or performed by Grantor. Grantor acknowledges that additional further lawful conditions or restrictions may be imposed by Grantee as a condition of approvals, including but not limited to final site plan approval.
- F) All references hereinabove to zoning districts and to regulations applicable thereto, refer to the City Zoning Ordinance of the City of Hampton, in force as of the date the conditional rezoning amendment is approved by the Grantee.
- G) The Grantor covenants and agrees that (1) the Zoning Administrator of the City of Hampton, Virginia, shall be vested with all necessary authority on behalf of the governing body of the City of Hampton, Virginia, to administer and enforce the foregoing conditions and restrictions specified in this Agreement, including (i) the ordering in writing of the remedying of any noncompliance with such conditions, and (ii) the bringing of legal action or suit to ensure compliance with such conditions, including mandatory or prohibitory injunction, abatement, damages or other appropriate action, suit or proceedings; (2) the failure to meet all conditions

shall constitute cause to deny the issuance of any of the required building or occupancy permits as may be appropriate; and (3) the Zoning Map shall show by an appropriate symbol on the Map the existence of conditions attaching to the zoning of the subject Property on the Map and that the ordinance and conditions may be made readily available and accessible for public inspection in the office of the Zoning Administrator and in the Department of Community Development and that this Agreement shall be recorded in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia and indexed in the name of the Grantor and Grantee.

[Remainder of Page Intentionally Left Blank – Signatures on Following Page]

WITNESS the following signatures:

Grantor:

GLORIA HIGUERA LOPEZ

STATE OF VIRGINIA
City of Hampton, to-wit:

I, _____, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that **GLORIA HIGUERA LOPEZ**, whose name is signed to the foregoing instrument, has sworn to, subscribed, and acknowledged the same before me in the City and State aforesaid, this ____ day of _____, 20__ on behalf of said _____. He/she ☐ is personally known to me or ☐ has produced _____ as identification.

Notary Public

My commission expires: _____
Registration No. _____

Exhibit A
Legal Description

ALL THAT certain lot, piece or parcel of land situate, lying and being in the City of Hampton, Virginia, known and designated as Lot Numbered ONE HUNDRED EIGHTY-SEVEN A (187A), as shown on that certain plat entitled "PROPERTY LINE VACATION ON THE PROPERTY OF GLORIA HIGUERA LOPEZ, PART OF LOTS 187-189, BLOCK SIX, FORDHAM, HAMPTON, VIRGINIA," made by A. D. Potts and Associates, Inc., dated November 24, 2021, and recorded January 3, 2022 in the Clerk's Office of the Circuit Court for the City of Hampton, Virginia, as Instrument #220000053, to which plat reference is hereby made.

TOGETHER WITH all and singular the buildings and improvements thereon, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining; subject, however, to all recorded easements, conditions, restrictions and agreements that lawfully apply to the property.

AND BEING the same property conveyed to Gloria Higuera Lopez by that Deed of Bargain and Sale from Bi Chun Chen and Wen Juan Ni dated October 22, 2021 and recorded in the Clerk's Office aforesaid on November 1, 2021 as Instrument #210021666.