

Prepared by:
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After recording return to:
Office of the City Attorney
22 Lincoln Street
Hampton, VA 23669
(jek)

LRSN: 6000997

PROFFER AGREEMENT

THIS PROFFER AGREEMENT (“Agreement”) made this ____ day of _____, 2025 by and between MAGRUDER HOLDINGS, LLC, a Virginia limited liability company (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, Virginia 23669.

RECITALS

- A. Magruder Holdings, LLC is the owner of a certain parcel of property located in the City of Hampton, herein known as LRSN Number(s) 6000997, 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 General Commercial (C-3) District with proffered conditions to Langley Business Park (LBP) 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, (the "City") of this Agreement, Grantor agrees that it 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, its 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 of 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, its heirs successors and assigns, grantees and other successors in interest or title to the Property; namely:

CONDITIONS

- A. The site shall be developed in substantial conformance with the conceptual site plan, entitled, "Magruder Retail/Storage Concept Plan 023", dated 2 December 2024, prepared by WPL (the "Concept Plan"), a copy of which is on file with the Planning and Zoning Administration Division of the Community Development Department and has been exhibited to the Hampton Planning Commission and the Hampton City Council for illustrative purposes and to provide justification for this re-zoning action. The Concept Plan may be revised to accommodate minor environmental, engineering, architectural, topographic or other development conditions, or site plan approval requirements as required by law and subject to the approval of the Director of Community Development. A copy of the formal approved site plan shall be placed on file with the Planning and Zoning Administration Division of the Department of Community Development and shall supersede the previously filed Concept Plan.
- B. The Property shall be subdivided substantially similar to the manner depicted on the Concept Plan and in accordance with Chapter 35 of the Hampton City Code, subject to approval by the City and recordation of a final subdivision plat.

C. The buildings and site shall be constructed and developed in substantial conformance with the Copeland Industrial Park Design Guidelines, dated June 20, 2017. Proposed primary building materials (equal to or greater than 67%) shall consist of modern building materials, including pre-cast concrete, brick, aluminum, architectural metal panels, and/or glass. EFIS shall be limited to secondary and/or accent building materials (equal to or less than 33%). Notwithstanding the foregoing, the new building (Site B) shall be constructed in substantial conformance with the building elevations entitled, "Research Dr. Storage and Retail Center," prepared by RBA, dated 4 January 2025; and the renovated building (Site A) shall be constructed in substantial conformance with the building elevations entitled, "Threat Tec LLC," prepared by Andre + Marques Architecture, dated 10 October 2024 (collectively the "Elevations"); copies of which are on file with the Planning and Zoning Administration Division of the Community Development Department and have been exhibited to the Planning Commission and the Hampton City Council for illustrative purposes and to provide justification for this rezoning action. The Elevations may be revised to accommodate minor environmental, engineering, architectural, topographic or other development conditions, or site plan approval requirements as required by law and subject to the approval of the Director of Community Development. A copy of the formally approved Elevations shall be placed on file with the Planning and Zoning Administration Division of the Department of Community Development and shall supersede any previously filed elevations.

- 1) If an office/retail use is established within the proposed new building on Site B it shall not exceed 10,000 square feet.
- D. All rooftop equipment shall be screened from public view unless already existing. Screening shall be accomplished through use of appropriately high parapets, roof screens, or other opaque walls, constructed of durable building materials complementary to the primary or secondary materials of the exterior walls, pertaining to the respective Building A or Building B.
- E. A landscape plan shall be submitted during the site plan review process for review and approval by the Community Development Director or their designee. At a minimum, the landscape plan shall contain the following elements:
- 1) All existing trees shall be appropriately protected and retained to the extent possible. Exceptions include trees determined to be dead, diseased, invasive species, or in the way of proposed site development as indicated on the Concept Plan.
 - 2) A minimum of seventy-five percent (75%) of all new plant material shall be species native to southeastern Virginia as listed in the “Native Plant Material for Southeast Virginia” Guide and modification maybe be approved by Community Development Director or their designee.
 - 3) A landscape buffer along the eastern, southern, and western rights-of-way that shall include a combination of deciduous trees, evergreen trees, understory trees, and shrubs and consist of the following:

- a. Eastern (along Research Drive) - minimum five (5) foot wide landscape strip, consisting of retained existing street trees, supplemented with additional street trees at a minimum spacing of 50 feet apart and the addition of a continuous evergreen shrub row, capable of achieving and maintain a minimum 36" in height.
 - b. Southern (along Floyd Thompson Blvd.) - minimum twenty (20) foot wide landscape area, consisting of retained existing street trees, supplemented with additional street trees and understory and/or evergreen trees at a minimum spacing of 30 feet apart staggered and the addition of a continuous evergreen shrub row, capable of achieving and maintaining a minimum 36" in height.
 - c. Western (along Neil Armstrong Parkway) - minimum twenty (20) foot wide buffer consisting of preserved existing trees, with the exception that all dead, diseased or damaged vegetation and invasive species may be removed only to the extent necessary. At the ground level downed trees, limbs, and living understory less than two (2") inches in caliper may also be removed to the extent necessary. Pavement areas, including but not limited to parking, drive aisles, loading areas, etc., within the property adjacent to the buffer shall also include the addition of continuous evergreen shrub row, capable of achieving and maintaining a minimum 36" in height.
- 4) Any outdoor storage and loading areas shall be screened from any existing or proposed public right-of-way and adjacent properties as

follows, the Community Development Director or their designee may modify if needed:

- a. Screening shall include opaque fencing or walls and/or landscaping;
 - b. Opaque walls and fencing shall be of durable materials that incorporate architectural features from and complementary to the respective to the buildings where located on Site A or Site B;
 - c. Landscape screening of these areas shall consist of a combination of evergreen trees and shrubs of varying heights and species to form a continuous hedge row screen, capable of achieving and maintaining a minimum of eight (8) feet in height. Planting specifications at the time of planting shall be as follows:
 - i. Evergreen trees shall be a minimum ten (10) feet in height with a maximum spacing of 15 feet on center;
 - ii. Evergreen shrubs shall be a minimum three (3) feet in height with a maximum spacing of three (3) feet on center
- 5) All ground mounted equipment (e.g., trash dumpsters, generators, HVAC, utility boxes, etc.) shall be screened from any existing or proposed public right-of-way and adjacent properties with fences, walls, and/or landscaping as follows:
- a. Opaque walls and fencing shall be of durable materials that incorporate architectural features from and complement the respective to the buildings where located on Site A or Site B.

b. Evergreen shrubs must be fully branched to the ground with a minimum spacing of 30 inches on center and capable of achieving and maintaining a minimum height of the equipment to be screened.

6) At the time of planting, deciduous trees shall be a minimum 2" caliper, understory and evergreen trees shall be minimum ten (10) feet in height, screening shrubs shall be a minimum 36" in height, and all other shrubs shall be a minimum 24" in height, unless otherwise specified herein.

F. The unique development proposed at the Property in the Concept Plan and Elevations is accomplishing the policy goals of locating high-traffic uses in the most accessible and visible parts of the building. Therefore, if a storage facility 2 use, as that use is defined in the Zoning Ordinance, is established in the building on Site B pursuant to an approved use permit, such use shall comply with the Zoning Ordinance and all conditions of the use permit, including Zoning Ordinance section 3-3(53), except that Zoning Ordinance section 3-3(53)(a)(ii) shall be replaced with the following requirement:

1) The building shall be mixed-use. The storage facility shall include a maximum of 21,000 sq. ft. of storage units on the first floor of the building, such first floor totaling 30,000 sq. ft.. The remaining square footage of the first floor of the building shall be a use from Residential - 1, 2, & Multifamily; Retail Sales, Services, and Office; Institutional; Recreational; and/or Industrial. Such use shall be located in the portion of the building that is closest to and visible from Floyd Thompson Drive.

The storage facility shall not be counted towards the two (2) or more uses required for mixed-use.

- G. The applicant acknowledges that further lawful conditions and restrictions against the Property may be required by the City during the detailed site plan review and administration of applicable codes and regulations of the City by all appropriate agencies and departments of the City, which shall be observed or performed by the Grantor. It further acknowledges that additional further lawful conditions or restrictions may be imposed by the City as a condition of approval, including, but not limited to, final site plan approval.
- H. 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 City.
- I. It is understood that all phases of the proposed project shall comply with all ordinances of the City of Hampton.
- J. 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.

(Signatures on following page)

WITNESS the following signature:

Grantor:

Magruder Holdings, LLC,
a Virginia limited liability company

By:

Name: Jim Crawford

Title: Managing Partner

STATE OF VIRGINIA
City of Hampton, to-wit:

I, Stephanie Cloutier, the undersigned, a Notary Public in and for the City and State aforesaid, do hereby certify that Jim Crawford, whose name is signed to the foregoing instrument as (title) Managing Partner of Magruder Holdings, LLC, a Virginia limited liability company has sworn to, subscribed, and acknowledged the same before me in the City and State aforesaid, this 6th day of December, 2024, on behalf of said Magruder Holdings, LLC. He/she ☒ is personally known to me or ☐ has produced _____ as identification.

[Signature]
Notary Public

My commission expires: 9/30/27
Registration No. 337381

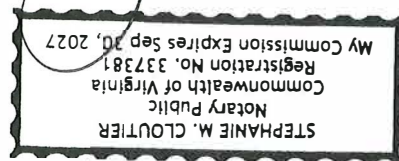


Exhibit A
Legal Description

ALL that certain lot, piece of parcel of land, with the improvements thereon and the appurtenances thereto belonging, lying and being in the City of Hampton, Virginia, and containing approximately five (5) acres, more or less, as shown on that certain "ALTA/ACSM LAND TITLE SURVEY OF WYLE LABORATORIES (DB 403, PG 862)" made by Miller-Stephenson & Associates, P.C., dated August 27, 1999, and being more particularly described as follows:

BEGINNING at a pin on the east side of Magruder Boulevard 390.00 feet from the intersection of Magruder Boulevard and Floyd Thomson Drive, thence S 80 degrees 58' 37" E a distance of 550.00 feet to a point on the west side of Research Drive thence S 09 degrees 01' 23" W a distance 385.00 feet of a point; thence with a 15 foot radius curve to the right and an arc length of 23.56 feet to a point on the northern side of Research Drive; thence N 80 degrees 58' 37" W a distance of 525.00 feet to a point; thence N. 35 degrees 58' 37" W a distance of 14.14 feet to a point on the easterly right-of-way line of Magruder Boulevard, thence along said easterly right-of-way line of Magruder Boulevard N 09 degrees 01' 23" E a distance of 390.00 feet to the point of beginning and containing 5.04 acres, more or less.

BEING the same real estate conveyed to Magruder Holdings, LLC, a Virginia limited liability company by Deed from EAGLE LAND, LLC, a Virginia limited liability company dated August 9, 2019, recorded August 14, 2019, in the Clerk's Office of the Circuit Court of the City of Hampton, Virginia as Instrument No. 190010451.