

PROFFERS
PCA 92-P-001-3
April 5, 2001

Pursuant to 15.2-2203A of the Code of Virginia 1950 as amended and Section 18-203 of the Zoning Ordinance of the County of Fairfax (1978 as amended) ("ZO"), subject to the Board of Supervisors' approval of the requested Proffered Condition Amendment ("PCA"), the Applicant, WEST*GROUP PROPERTIES LLC, its successors and assigns reaffirm Proffers dated October 6, 2000, a copy of which is attached as Exhibit A, which shall remain in full force and effect except as amended as follows:

I. **GENERALIZED DEVELOPMENT PLAN ("GDP")**. The locations of the buildings shown on the GDP dated February 10, 1992, revised May 6, 1992, February 23, 1999, September 12, 2000 and March 30, 2001 shall be considered for illustrative purposes only. Specific tabulations for floor area ratios, green space, parking, and final location and footprint of the proposed buildings and parking structures for each individual building site shall be determined at the time of site plan review and approval. At the time of each site plan submission, a copy of the site plan shall be submitted to the Providence District Planning Commissioner for review and comment. The GDP is not proffered in its entirety, but certain elements of the GDP as specifically described below are proffered.

A. **Floor Area Ratios ("FAR")**. The total FAR on the approximately 131 acre Gross Tract Area (as defined below) for office uses, accessory uses and all other uses permitted in the C-3 Zoning District shall not exceed a 0.65 FAR. However:

1. Individual Building Sites (as defined below) within the Old Springhouse Road Area Land Bay (as defined below) may individually exceed a 1.0 FAR, but the total FAR of the Old Springhouse Road Area Land Bay shall not exceed a 1.0 FAR.

2. Individual Building Sites (as defined below) within the Colshire Drive Area Land Bay (as defined below) may individually exceed a 1.0 FAR, but the total FAR of the Colshire Drive Area Land Bay shall not exceed a 1.0 FAR.

3. Individual Building Sites (as defined below) within the Old Meadow Road Area Land Bay (as defined below) may individually exceed a 1.0 FAR, but the total FAR for the Old Meadow Road Land Bay shall not exceed a 0.7 FAR.

Definitions:

Gross Tract Area shall be defined as the sum of the areas of the three Land Bays and consisting of 130.3247 acres.

Building Site shall be defined as the land associated with the building, parking and/or parking structures, open space and accessory structures or the "site plan."

The Land Bays shall be defined as follows:

- Old Springhouse Road Area (consisting of approximately 42 acres)
- Colshire Drive Area (consisting of approximately 58 acres)
- Old Meadow Road Area (consisting of approximately 31 acres)

B. Building Height.

1. Buildings within the Old Springhouse Road Land Bay shall not exceed 90 feet in height except as qualified by paragraph B.4 below.
2. Buildings within the Colshire Drive Land Bay shall not exceed 90 feet in height except as qualified by paragraph B.4 below.
3. Buildings within the Old Meadow Road Land Bay shall not exceed 75 feet in height except as qualified by paragraph B.4 below.
4. An increase in height for any building(s) may be permitted by the Board of Supervisors in accordance with the applicable Special Exception provisions of the Zoning Ordinance without a Proffer Condition Amendment.

C. Landscaping. Future Building Sites shall be landscaped using a mix of shade and/or ornamental trees (3" in caliper at planting) and evergreen trees (6' to 8' in height at planting) of a quantity and species consistent with existing WEST*GATE landscaping and as generally, but not specifically, illustrated on Sheet 9 of 9 of the GDP as it relates to quality and quantity of tree and plant stock. All landscaping plans submitted at the time of site plan submission shall be reviewed and approved by the Department of Public Works and Environmental Services ("DPWES") as part of the site plan approval process.

D. Transitional Screening and Barrier. Transitional screening and barrier requirements shall be modified or waived as follows:

1. Building 10 (Hayes) is existing and the transitional screening and barrier modifications for the south, west and east property lines were granted by DPWES for Site Plan 1702-SP-01 and shall remain in place.
2. The limits of the Flood Plain, left undisturbed, shall serve as the transitional screening and barrier for buildings located in Old Meadow Road Land Bay C.

3. Transitional screening and barrier requirements for existing Buildings 14 (Van Buren) and 15 (Garfield) shall be modified to allow the landscaping existing at the time of the rezoning as shown on the GDP to serve as the transitional screening and barrier.

4. Transitional screening and barrier requirements for existing buildings located along the east property line in Colshire Drive Land Bay B-3 and along the south property line in Old Meadow Road Land Bay C shall be modified to allow the existing wooded area generally shown on the GDP to serve as the transitional screening and barrier.

5. Transitional screening and barrier for buildings within the Old Springhouse Road Land Bay and the R-30 project, known as Gates of McLean, located east of Scotts Run Crossing is hereby modified in favor of barrier and landscaping installed on R-30 property.

E. Pedestrian Access System. Continuous four-foot wide concrete sidewalks along public streets fronting individual Building Sites shall be shown on each site plan submitted and shall be installed prior to site plan bond release. The sidewalk system shall be in lieu of any trails shown on the County-wide Trails Plan for the Gross Tract Area with the exception of trails within Park Authority land which are addressed in Proffer IV Park Authority.

F. Storm Water Management and Best Management Practices.

1. Storm Water Management ("SWM") and Best Management Practices ("BMP") shall be provided for the entire Gross Tract Area in accordance with applicable County ordinances as approved, modified or waived by DPWES. SWM/BMP may be provided on a site by site basis, land bay by land bay basis, or a combination thereof.

G. Environmental Quality Corridor ("EQC") and 100 Year Flood Plain ("Flood Plain"). Unless waived or modified by the Director of DPWES, the Applicant shall preserve in an undisturbed state the EQC and Flood Plain as generally depicted on the GDP. However, the EQC and Flood Plain may be crossed by utilities, roadways, and trails to the minimum extent necessary. The Applicant shall provide Compensatory Landscaping as defined in Proffer I.I(EYE) herein for EQC encroachments for the storm water detention facility and for the parking structure and access driveway to any building located in the Colshire Drive Land Bay, along the common property line with the Scott Run Stream Valley Park as may be permitted by Exhibit E. Compensatory Landscaping shall be shown on individual site plans submitted to DPWES. The area preserved as the EQC and Flood Plain or the area of Compensatory Landscaping shall be deemed to satisfy transitional screening and barrier requirements in the areas where the EQC and Flood Plain and transitional screening yards coincide and consistent with Proffer I.D herein.

H. Limits of Clearing and Grading. The Applicant shall use best efforts to adhere to the preliminary limits of clearing and grading as shown on the GDP. However, actual limits of clearing and grading shall be determined at the time of site plan approval. DPWES may approve minor deviations from the limits of clearing and grading shown on the GDP provided that Compensatory Landscaping is provided per Proffer I.I(EYE) herein.

I(EYE). Compensatory Landscaping. The Applicant may deviate to a limited extent into or cross the EQC per Proffer I.G herein or the Applicant may deviate from preliminary limits of clearing and grading shown on the GDP per Proffer I.H herein provided that the Applicant provides Compensatory Landscaping. Compensatory Landscaping shall be defined as the Applicant's choice of the following:

1. Planting an area equal to 125% of the area of the EQC or Flood Plain disturbance or deviation from preliminary limits of clearing and grading shown on the GDP with trees 3" at planting in caliper or evergreens 6' - 8' in height at planting in quantities and species approved by DPWES in accordance with Section 12-04037A of the Fairfax Public Facilities Manual or other methods acceptable to DPWES; or

2. Providing an uncleared or undisturbed area equal to the area of the EQC or Flood Plain disturbance or deviation from preliminary limits of clearing and grading shown on the GDP; or

3. A combination of Proffer I(EYE).1 and 2 herein.

The Compensatory Landscaping shall be provided either on the Building Site or within the Land Bay and adjacent to or as contiguous to the area of the EQC or Flood Plain disturbance or deviation from the preliminary limits of clearing and grading shown on the GDP as possible.

II. COUNTERPARTS. To facilitate execution, this Proffer Statement may be executed in as many counterparts as may be required. It shall not be necessary that the signature on behalf of all the parties to this Proffer Statement appear on each counterpart of this Proffer Statement. All counterparts of this Proffer Statement shall collectively constitute a single instrument.

WEST*GROUP PROPERTIES LLC

By: G. T. Halpin
G. T. Halpin, President

THE MITRE CORPORATION

By: Lewis Fincke
Lewis Fincke, Vice President, Chief Financial Officer and Treasurer

PROFFERS

PCA 92-P-001-2 andPCA 1998-PR-052October 6, 2000

Pursuant to Section 15.2 -2203A of the Code of Virginia, 1950 as amended, and Section 18-203 of the Zoning Ordinance of the County of Fairfax (1978 as amended) ("ZO"), subject to the Board of Supervisors' approval of the requested Proffered Condition Amendments ("PCA"), the applicant and owner for themselves and their successors and assigns (hereinafter "Applicant") hereby proffers to the following conditions. If these applications are approved, the proffered conditions described below supersede all previously approved proffered conditions applicable to the property. Any future modification(s) to these proffers or Generalized Development Plan ("GDP") which affects only a specific Building Site or Land Bay may be approved by the Board of Supervisors upon application for a proffered condition amendment by the individual owner of the specific Building Site or Land Bay without amending this entire proffer statement or the entire GDP.

I. GENERALIZED DEVELOPMENT PLAN ("GDP"). The locations of the buildings shown on the GDP dated February 10, 1992, revised May 6, 1992, February 23, 1999 and September 12, 2000 shall be considered for illustrative purposes only. Specific tabulations for floor area ratios, green space, parking, and final location and footprint of the proposed buildings and parking structures for each individual building site shall be determined at the time of site plan review and approval. At the time of each site plan submission, a copy of the site plan shall be submitted to the Providence District Planning Commissioner for review and comment. The GDP is not proffered in its entirety, but certain elements of the GDP as specifically described below are proffered.

A. Floor Area Ratios ("FAR"). The total FAR on the approximately 131 acre Gross Tract Area (as defined below) for office uses, accessory uses and all other uses permitted in the C-3 Zoning District shall not exceed a 0.65 FAR. However:

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2. Individual Building Sites (as defined below) within the Colshire Drive Area Land Bay (as defined below) may individually exceed a 1.0 FAR, but the total FAR of the Colshire Drive Area Land Bay shall not exceed a 1.0 FAR.

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3. Buildings within the Old Meadow Road Land Bay shall not exceed 75 feet in height except as qualified by paragraph B.4 below.

4. An increase in height for any building(s) may be permitted by the Board of Supervisors in accordance with the applicable Special Exception provisions of the Zoning Ordinance without a Proffer Condition Amendment.

C. Landscaping. Future Building Sites shall be landscaped using a mix of shade and/or ornamental trees (3" in caliper at planting) and evergreen trees (6' to 8' in height at planting) of a quantity and species consistent with existing WEST*GATE landscaping and as generally, but not specifically, illustrated on Sheet 9 of 9 of the GDP as it relates to quality and quantity of tree and plant stock. All landscaping plans submitted at the time of site plan submission shall be reviewed and approved by the Department of Public Works and Environmental Services ("DPWES") as part of the site plan approval process.

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1. Storm Water Management ("SWM") and Best Management Practices ("BMP") shall be provided for the entire Gross Tract Area in accordance with applicable County ordinances as approved, modified or waived by DPWES. SWM/BMP may be provided on a site by site basis, land bay by land bay basis, or a combination thereof.

G. Environmental Quality Corridor ("EQC") and 100 Year Flood Plain ("Flood Plain"). Unless waived or modified by the Director of DPWES, the Applicant shall preserve in an undisturbed state the EQC and Flood Plain as generally depicted on the GDP. However, the EQC and Flood Plain may be crossed by utilities, roadways, and trails to the minimum extent necessary. The Applicant shall provide Compensatory Landscaping as defined in Proffer I.I(EYE) herein for EQC encroachments for the storm water detention facility and for the parking structure and access driveway to any building located in the Colshire Drive Land Bay, along the common property line with the Scott Run Stream Valley Park as may be permitted by Exhibit E.

Compensatory Landscaping shall be shown on individual site plans submitted to DPWES. The area preserved as the EQC and Flood Plain or the area of Compensatory Landscaping shall be deemed to satisfy transitional screening and barrier requirements in the areas where the EQC and Flood Plain and transitional screening yards coincide and consistent with Proffer I.D herein.

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I(EYE). Compensatory Landscaping. The Applicant may deviate to a limited extent into or cross the EQC per Proffer I.G herein or the Applicant may deviate from preliminary limits of clearing and grading shown on the GDP per Proffer I.H herein provided that the Applicant provides Compensatory Landscaping. Compensatory Landscaping shall be defined as the Applicant's choice of the following:

1. Planting an area equal to 125% of the area of the EQC or Flood Plain disturbance or deviation from preliminary limits of clearing and grading shown on the GDP with trees 3" at planting in caliper or evergreens 6' - 8' in height at planting in quantities and species approved by DPWES in accordance with Section 12-04037A of the Fairfax Public Facilities Manual or other methods acceptable to DPWES; or

2. Providing an uncleared or undisturbed area equal to the area of the EQC or Flood Plain disturbance or deviation from preliminary limits of clearing and grading shown on the GDP; or

3. A combination of Proffer I(EYE).1 and 2 herein.

The Compensatory Landscaping shall be provided either on the Building Site or within the Land Bay and adjacent to or as contiguous to the area of the EQC or Flood Plain disturbance or deviation from the preliminary limits of clearing and grading shown on the GDP as possible.

II. TREATMENT OF CELLAR SPACE. The Applicant agrees to limit the use of cellar space to:

A. The core area used by the building tenants or owners (such as rest rooms, mechanical rooms, electrical rooms, janitor and building maintenance rooms);

B. Specialty areas used by the building tenants or owners (such as computer rooms, battery rooms, "clean rooms", security tanks, SCIF rooms, bulk storage for documents, paper and office supplies, goods and products of the building tenants or janitorial supplies, libraries, etc.);

C. Simultaneous or accessory uses by the building tenants or owners (such as conference rooms, conference centers, employee cafeterias or canteens, employee lounges or classrooms);

D. Office use which shall not exceed 50% of the cellar space.

Although the Applicant may elect to provide parking for cellar uses A, B, and C above, parking shall not be required for uses A, B, and C above. Cellar use D above shall be parked at "office rate", based on the total of the Gross Floor Area of the building plus the amount of the cellar area used as office use; however, cellar space, regardless of use, shall not be computed as Gross Floor Area for FAR purposes.

III. TRANSPORTATION PROFFERS.

A. Tysons Corner Area Wide Transportation Contribution.

1. The Applicant shall contribute to Fairfax County Two Dollars and Eighty-five Cents (\$2.85) per FAR square foot (not including cellar space) with the following exceptions:

- All buildings existing at the time of the original rezoning application as approved by the Board of Supervisors 6/22/92 and shown on Exhibit H attached hereto shall be exempt from the \$2.85 payment to the extent that there is no increase in FAR square feet above the FAR square feet shown for existing buildings depicted in "Floor Area Ratio Computation" appearing on Sheet 8 of 9 in the GDP.
- Building Site 8 (McKinley) (254,210 FAR square feet) and Building Site 24 (Harrison) (95,304 FAR square feet) or 349,514 equivalent FAR square feet on other sites within the Gross Tract Area shall be exempt from the \$2.85 per FAR square feet to the extent there is no increase in FAR square feet above 349,514 FAR square feet. To the extent there is an increase in FAR square feet for Building Sites 8 (McKinley) and 24 (Harrison) above 349,514 FAR square feet, the \$2.85 per FAR square feet shall apply only to the net increase in FAR square feet.
- The \$2.85 per square foot, as increased by escalations to the Engineering News Record, Construction Cost Index from the date of approval of RZ 92-P-001 (6/22/92), shall be paid directly to the County of Fairfax at the time of issuance of the building permit(s) for building(s) for which the building permit(s) is being issued and shall be used for Tysons Area Wide Transportation Improvements.

Priorities and disposition of Tysons Area Wide Transportation Contributions shall be approved by the Providence District Supervisor in consultation with appropriate Fairfax County officials.

B. Transportation Design.

1. Eastbound I-66/DAAR Ramp and Loop from Northbound Route 123. The Applicant shall provide Fairfax County with \$110,000 for Fairfax County to design the proposed Eastbound I-66 Ramp and Associated Loop shown on Sheet 2 of 9 of the GDP. Payment shall be made in accordance with Exhibit A "Transportation Phasing Schedule" attached herein.

2. Route 123 Widening to six (6) through lanes. The Applicant shall contract with a Virginia Licensed Professional Engineer ("Engineer") to provide preliminary design of the widening of Route 123 from the Old Meadow Road intersection through the Anderson Road intersection to six (6) through lanes, associated turning lanes and sidewalk both sides. All civil engineering shall be based on VDOT Road and Bridge Standards, Volumes I and II unless otherwise waived or modified by VDOT. The Scope of Work shall be contracted and performed per Exhibit B attached herein.

The Scope of Work defined in Exhibit B shall specifically not be considered construction or bid documents. Within six (6) months of the date of Board of Supervisors' approval of RZ 92-P-001, a Virginia Licensed Professional Engineer shall submit six (6) sets of documents to the Fairfax County Director of Department of Transportation and six (6) sets of documents to VDOT after completion of Scope of Work Task II.B for the purpose of DOT and VDOT review and comment. Upon receipt of review comments by DOT and VDOT or 90 days, whichever is earlier, the Engineer shall proceed with Scope of Work Tasks II.C through G and submit Scope of Work Task II.A through G to DOT and VDOT for review and comment. DOT and VDOT shall have 90 days to reply. Upon receipt of comments or 90 days, whichever is earlier, the Engineer shall prepare the Preliminary Design Study Report ("PDSR"), incorporate comments and publish PDSR. The County shall notify, in writing, the Engineer and the Applicant of approval of the PDSR within 90 days and the Engineer shall submit the Final PDSR per Scope of Work Task III.A and B. Submission of the Final PDSR shall constitute completion of this Proffer, or

Alternatively the Applicant may escrow \$50,000 with Fairfax County at any time after 18 months of the submittal to DOT of Scope of Work Tasks II.B which shall constitute completion of the Route 123 design obligation cited in the Transportation Phasing Schedule. At the option of the County, the County may draw upon the escrow to complete the Final PDSR. In the event that the County does not complete the Final PDSR, the \$50,000 escrow, including interest accrued, shall be returned to the Applicant upon the actual submission of the Final PDSR by the Applicant.

C. Street Dedications. Upon receipt from Fairfax County or at the time of a site plan submission which involves dedication of contiguous right-of-way, whichever is earlier, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors the following rights-of-way and associated ancillary easements:

1. Land necessary to construct the widening of Route 123 between Old Meadow Road and Anderson Road. Area of dedication to be determined by Design Proffer III.B.2 herein.

2. Land, of approximately 0.05 acres (2200 square feet) for the construction of the I-66/DAAR eastbound ramp. The actual area of dedication shall be determined by results of Proffer III.B.1, but under no circumstance shall dedication of land preclude the Garfield Building from achieving 181 surface parking spaces of the 207 existing parking spaces and travel lanes which allow 360 degree circulation around the building and parking lot.

3. Land necessary to construct and maintain a public street referred to as "Proposed Old Springhouse Road Extended" as generally shown on Sheet 4 of 9 of the GDP.

4. Notwithstanding timing indicated in "Transportation Phasing Schedule" (Exhibit A), Applicant shall dedicate right-of-way to the Board of Supervisors in fee simple and shall substantially construct the Colshire Meadow Drive two-lane roadway and associated bridge (as generally depicted on the GDP) by a date certain of four (4) years from the date of approval of these applications. Substantial Completion shall be defined as "open for traffic" as opposed to accepted by VDOT for maintenance. If the roadway and the bridge cannot be constructed to an "open for traffic" condition within four (4) years of the date of approval of these applications despite the Applicant's diligent efforts, only one new shell building permit not to exceed 200,000 new FAR square feet within the Old Meadow Road Land Bay shall be issued

ntil road is "open for traffic" or this commitment is waived or modified by a subsequent PCA application.

5. Land necessary to construct and maintain one (1) additional outbound right hand turn lane from existing Old Springhouse Road onto Route 123.

6. Land necessary to construct up to one (1) additional lane from Old Meadow Road onto Route 123.

7. Land necessary to construct and maintain not more than two (2) additional outbound lanes from Colshire Drive onto Route 123.

The Applicant's agreement to convey fee simple title to the Board of Supervisors for the above mentioned rights-of-way is subject to all of the following conditions:

- Density credit for dedication in advance of construction shall be granted by the Board of Supervisors with the approval of RZ 92-P-001 pursuant to Article 2-308 of the ZO.

Density Credit for dedication may be utilized anywhere within the Gross Tract Area and shall not be limited to the site plan from which dedication is made.

8. The Applicant's obligation to convey fee simple title to the Board of Supervisors for rights of way for buildings indicated as "existing" on the GDP shall be conditioned on a waiver granted by the Board of Supervisors of the peripheral parking lot landscaping requirement Article 13-202, Paragraph 1, A and B of the ZO in lieu of Article 13-202, Paragraph 2, A and B for all dedications associated with those rights of way.

9. As a condition of the Applicant's obligation to make the dedications referred to in III.C.2, the Board of Supervisors shall direct the Director of DPWES to grant pursuant to Article 11-102, Paragraph 8 of the ZO, a reduction in parking for up to 26 parking spaces and approve 181 spaces (current parking ordinance requirement) as opposed to existing 207 spaces (old ordinance requirement and spaces shown on existing site plan) for Building 15 in order to dedicate land and accomplish construction by others of the proposed Eastbound I-66/DAAR Ramp.

10. The dedication referred to in III.C.4 shall be conditioned on the granting by the Park Authority of the necessary rights-of-way and easements to dedicate and construct Colshire Meadow Drive and bridge pursuant to Proffer IV.A herein.

11. Applicant agrees to dedicate in fee simple approximately 1.1392 acres of land to the County of Fairfax for ultimate dedication to the Commonwealth of Virginia along the I-495 right of way as generally shown on sheet 4A and 4B of 9 and identified as "VDOT Reserved Area" upon the earliest of the following events:

a. Approval of the first proposed (new) site plan with predominately I-495 frontage within the Old Springhouse Road Land Bay as generally shown on sheet 4A and 4B of 9; or

b. Upon funding of the projects generally called Beltway Improvements a.k.a. I-495 HOV Lane Study; or

c. March 31, 2005.

Dedication of the land would be conditioned upon Applicant obtaining advance density credit pursuant to Sect. 2-308 of the Zoning Ordinance.

Notwithstanding dedication commitments above, Applicant shall be permitted to encroach into the I-495 future right-of-way and grant temporary construction and grading easements and a permanent maintenance easement to utility companies prior to dedications cited in 11.a. above. Encroachments shall not exceed areas generally as shown on Exhibits F and G attached hereto. Minor deviations from these areas may be granted administratively by DOT.

12. Applicant agrees to dedicate in fee simple approximately 1.3794 acres of land to the County of Fairfax for ultimate dedication to WMATA or other "rail entity" along Rt. 123 frontage as generally shown on sheet 4A and 4B of 9 and identified as "WMATA Reserved Area" for the purpose of installing rail similar to Metro Rail ("Rail"). The Applicant shall dedicate right of way the earlier of the following events:

a. Approval of the first proposed (new) site plan with predominately Rt. 123 frontage within the Old Springhouse Road Land Bay as shown on sheets 4A and 4B of 9; or

b. Funding of a Rail project which connects this location to West Falls Church Metro Station; or

c. March 31, 2005.

Dedication of land would be conditioned upon attaining advance density credit pursuant to Sect. 2-308 of the Zoning Ordinance.

D. Proposed Street Construction.

1. The Applicant shall construct Proposed Old Springhouse Road Extended as generally, but not specifically, depicted on Sheet 4 of 9 of the GDP per Exhibit A "Transportation Phasing Schedule" attached herein.

2. The Applicant shall construct an outbound double right hand turn at the intersection of existing Old Springhouse Road and Route 123 per Exhibit A "Transportation Phasing Schedule" attached herein.

3A. The Applicant shall construct the improvements, referred to as Scenario W, X, Y or Z as described on sheets 5 and 6 of 9 of the GDP as may be selected by VDOT, to Old Meadow Road, Colshire Meadow Road, Colshire Drive, and related intersections with Route 123, provided all appropriate approvals are obtained from the County and VDOT pursuant to _____ paragraphs 3B and 3C below.

3B. The Applicant shall, in writing and within 90 days of the approval of RZ 92-P-001 by the Board of Supervisors, petition VDOT for approval to construct the improvements to Old Meadow Road, Colshire Meadow Drive, Colshire Drive and related intersections with Route 123, as shown on sheets 5 and 6 of the GDP. The Applicant acknowledges that the Department of Transportation's currently recommended alternative is Scenario W-P, and the Applicant further acknowledges that citizens in the vicinity of the application property have expressed a preference for Scenario Z. Said request shall be accompanied by the necessary traffic and engineering analyses of all four Scenarios, sufficient to enable VDOT to evaluate the relative performance of all four (4) of the alternatives on the safety and capacity of Route 123 between I-495 and the Dulles Airport Access Highway ("DAAR"). The Applicant further commits to provide any further supporting technical documentation, including, without limitation, studies using the Highway Critical Method, as may be required by

VDOT to evaluate these alternatives. Copies of all submissions to and correspondence with VDOT relating to this paragraph shall be provided simultaneously to OT.

3C. In the event that VDOT approves the road improvements described as Scenario W within 330 days of the approval of RZ 92-P-001 by the Board of Supervisors, the Applicant shall construct the improvements comprising Scenario W in accordance with Exhibit A "Transportation Phasing Schedule" attached herein.

4. In the event that VDOT approved the road improvements described as Scenario X or Y within 330 days of approval of RZ 92-P-001 by the Board of Supervisors, the Applicant shall construct the improvements comprising the selected Scenario in accordance with Exhibit A "Transportation Phasing Schedule" attached herein.

5. In the event that within 330 days of approval of RZ 92-P-001 by the Board of Supervisors VDOT approves Scenario Z, the Applicant shall:

a. construct road improvements consistent with Scenario Z and in accordance with the timing outlined in Exhibit A "Transportation Phasing Schedule" attached herein.

b. construct a two (2) lane Colshire Meadow Drive and associated two (2) lane bridge across the Park consistent with Scenario Z and in accordance with the timing outlined in Exhibit A "Transportation Phasing Schedule" attached herein.

6. In the event VDOT does not respond in 330 days of approval of RZ 92-P-001 by the Board of Supervisors (which may be extended by mutual written consent of the Applicant, DOT and VDOT), the Applicant may proceed with the Applicant's choice of Scenario W or X or Y or Z on an intersection-by-intersection basis and to the extent VDOT right-of-way permits may be obtained for said construction. Intersection improvements shall be constructed in accordance with timing outlined in Exhibit A "Transportation Phasing Schedule" attached herein. In the event the Applicant cannot obtain VDOT right-of-way permits to construct the collective or individual intersections outlined in Scenario W or X or Y or Z after diligently pursuing permits and being denied by VDOT in writing, the Applicant may proceed with development square footage outlined in Exhibit A "Transportation Phasing Schedule" attached herein without an obligation to construct improved intersections.

7a. In the event the Applicant is unable to proceed with intersection improvements at Old Meadow Road and Route 123, pursuant to Proffer III.D.7 herein, the Applicant shall contribute to Fairfax County \$145,000.00, as increased by escalations to the Engineering News Record, Construction Cost Index from the date of approval of RZ 92-P-001, which represents the equivalent value of Staff recommended Scenario W. Said funds shall be provided within the later of 60 days of the date of written VDOT disapproval of the specific improvement or prior to issuance of building permits for FAR in excess of 1,855,440 square feet and in accordance with the "Transportation Phasing Schedule" attached herein as Exhibit A.

7b. In the event the Applicant is unable to proceed with intersection improvements at Colshire Drive and Route 123, pursuant to Proffer III.D.7 herein, the Applicant shall contribute to Fairfax County \$140,000, as increased by escalations to the Virginia Highway Construction Bid Index from the date of approval of RZ 92-P-001, which represents the equivalent value of Staff recommended Scenario W. Said funds shall be provided within the later of 60 days of the date of written VDOT disapproval of the specific improvement or prior to issuance of building permits for FAR in excess of 1,855,440 FAR square feet and in accordance with the "Transportation Phasing Schedule" attached herein as Exhibit A.

Note: Minor deviations from Scenario W, X, Y and Z or combinations of Scenarios W, X, Y or Z described in Proffer III.D.1 through 7a and 7b herein which are recommended by VDOT and reviewed and approved by the Director of the Office of Transportation, shall not constitute a requirement for a Proffer Condition Amendment by the Applicant.

8. Notwithstanding Proffer III.D.1 through 7 and the Transportation Phasing Schedule (Exhibit A) prior to issuance of building permits and non-residential use permits as detailed below for the next new FAR square footage in the Old Meadow Road Land Bay or Old Springhouse Road Land Bay, the Applicant shall construct and dedicate land as necessary to the Board of Supervisors in fee simple, subject to the approval of VDOT and the issuance of VDOT permits, for an additional lane on Old Meadow Road as it approaches Route 123 intersection, rendering an outbound left, a left and through, and a free right hand turn lane. The additional lane shall be approximately 300 feet long with an approximate 120 foot taper, but not to exceed the Grant Building (GDP No. 16) frontage on Old Meadow Road. In the event VDOT requires a

receiving lane on Route 123 to accommodate the free right hand turn lane, the Applicant shall construct the receiving lane for a distance of approximately 237 feet, but not to exceed the Grant Building (GDP No. 16) frontage on Route 123, including taper or transition into existing Route 123 through lane. The relocation of the existing WMATA bus shelter at the corner of Old Meadow Road and Route 123 shall be done at the Applicant's expense. Any cost of signalization associated with the additional lane shall be the responsibility of the Applicant. VDOT permits or VDOT letter denying permits shall be prerequisite to the issuance of the next building permit issued in the Old Meadow Road Land Bay. If VDOT permits are issued, the additional construction shall be completed sufficient to be open for traffic (as opposed to accepted by VDOT for maintenance) as a prerequisite to the issuance of the shell non-residential use permit for the building. If VDOT permits cannot be obtained and are denied in writing, the Applicant is relieved of this Proffer in its entirety. The additional lane on Old Meadow Road is to be considered an interim improvement and in the event VDOT selects Scenario W or X, the Applicant acknowledges that the additional lane may be obsolete or possibly have to be removed, the right-of-way vacated and the area restored. If the Applicant constructs the additional lane and Proffer III.D.7a is implemented, Proffer III.D.7a obligations shall be reduced by \$52,000 which is deemed the value of the additional Old Meadow Road lane constructed.

E. Traffic Signals at Colshire Meadow Drive and Old Meadow Road and Colshire Meadow Drive and Colshire Drive. At such time as signals are warranted as determined by VDOT, the Applicant shall provide the design, equipment, and installation of a traffic signal, or funds sufficient for same, at the intersections of Colshire Meadow Drive and Old Meadow Road and Colshire Meadow Drive and Colshire Drive.

F. Transportation Systems Management. The Applicant agrees to enter into an Agreement with TYTRAN to implement a Transportation Demand Management Program ("Program") as generally described in Exhibit D. The Applicant's only obligation is to monitor the provisions of the Agreement for compliance with the Program and fund the Program per paragraph 4 of the Program. The Applicant may elect to terminate the Agreement with TYTRAN/Regional Employer Services Program (RESP) for noncompliance at any time during the term of this proffer pursuant to paragraph 5 of the Program and pay \$30,000 a year to

XCO/DOT/RESP for the remaining year(s) of the Program cited in paragraph 4. In this case, payment of \$30,000 a year to the County for the remaining years of the Program shall be the Applicant's only obligation under this proffer. This proffer shall terminate upon final payment of \$30,000 on January 31, 2003 and notice provisions on continuation or cessation of the Program cited in paragraph 6 of the Program.

G. Bus Shelters and Bus Stop Pedestrian Access.

1. The Applicant shall provide to Fairfax County, within 60 days of approval of RZ 92-P-001 by the Board of Supervisors, \$30,000 for the design and construction of three (3) WMATA standard bus shelters to be located on either the north or the south side of Route 123 at existing bus stops between Old Springhouse Road and Anderson Road intersections or at other locations within the Gross Tract Area acceptable to the Applicant. In the event that any or all of the three (3) bus shelters, valued at \$10,000 each, are not constructed by December 22, 1997, any or all of the unspent \$30,000 shall be paid by the County to TYTRAN as the Applicant's partial or full payment credit for the next TYTRAN Transportation Coordinator annual payment due per Proffer III.F above.

2. The Applicant shall make reasonable effort to construct temporary asphalt, concrete, or stone paths where practical to connect existing sidewalk along the north and south sides of Route 123 between Old Meadow Road and Anderson Road. Installation of temporary paths within VDOT right-of-way shall be contingent upon approval by VDOT and the issuance of VDOT permits, whose approvals and permits the Applicant shall diligently pursue. The Applicant shall make reasonable effort to keep temporary paths in good repair. The intent of this proffer is to provide temporary, safe, all weather access to transit stops from existing or future sidewalk. The number, location, and design of the paths shall be at the sole discretion of the Applicant and shall be installed within 24 months of the approval of RZ 92-P-001 by the Board of Supervisors. This proffer is specifically not a prerequisite to any site plan nor building permit approval. This proffer shall automatically extinguish with the construction of Rt. 123 and side street improvements as described in Exhibit A.

H. Transportation Phasing Schedule. Applicant shall phase transportation improvements in accordance with the "Transportation Phasing Schedule" attached as Exhibit A.

I.(EYE) West*Gate Transit Stop. Applicant shall dedicate approximately 2,3496 acres of land at the southwest corner of Dolley Madison Boulevard (Rt. 123) and Colshire Drive (Rt.6471) as generally shown on sheet 2 of 9. The dedication plat shall be submitted to the County within 60 days of the approval of these PCAs and recorded immediately upon approval of the Dedication Plat by the Director of DPWES. Dedication of land to the Board of Supervisors, fee simple, shall be conditioned upon attaining advance density credit pursuant to 2-308 of the Zoning Ordinance.

IV. FAIRFAX COUNTY PARK AUTHORITY.

A. The Applicant shall provide the Park Authority with all items listed in Park Board Resolution approved September 17, 1991, as may be amended, and attached as Exhibit C, provided that:

1. Rezoning application RZ 92-P-001 is approved; and
2. The Park Board grants all necessary right-of-way, construction easements, and permanent access and maintenance easements to the Applicant to construct and maintain easements to the Applicant to construct and maintain a public two (2), three (3) or four (4) lane roadway and bridge across the Scotts Run Stream Valley Park in the location shown on Sheets 2 and 3 of 9 of the GDP and in general conformance with Public Improvement Plan 8293-PI-01-1 (as may be amended).

B. The Applicant shall provide screening along approximately 400 linear feet of chain link fence between The Colonies and the Park entrance road and parking lot. The planting strip between the edge of the parking lot and fence varies between 3' and 5' in width. Columnar evergreens, either shrubs or small trees, planted 4' - 5' on center, will provide screening and some noise attenuation between the parking lot and The Colonies residences. The Applicant shall plant approximately 50 trees, shrubs or plants within 18 months of the date of approval of RZ 92-P-001 at a cost to the Applicant not to exceed \$3,000. Final species selection and planting plan shall be subject to review and approval of Fairfax County Park Authority Staff. The Applicant shall have no maintenance responsibility nor warranty beyond any planting warranty that may be provided by nursery or nurseryman.

C. The Applicant shall provide Virginia registered civil engineering services to develop a plan for remediation of the erosion problem at terminus of existing rip--rap ditch at low end of parking lot. The remediation may include, but not be limited to, the installation of velocity brakes, flaring rip-rap and grouting rip-rap as may be determined by civil engineer. The Applicant shall repair the erosion problem based on civil engineer's recommendation and the Park Authority concurrence with recommendation at a total cost of civil engineering and construction combined not to exceed \$10,000. The Applicant shall complete engineering and construction within one (1) year of the date of approval of RZ 92-P-001. The Applicant shall not be required to obtain a bond or permit for construction nor provide post construction maintenance or repair.

V. LAND BAY A-1 AND PEDESTRIAN CONNECTIONS TO THE FUTURE METRO RAIL STATION AND LAND PLATFORM.

Special Exception Amendment SEA 98-P-051 is concurrently processing with PCA 92-P-001-2 and PCA 1998-PR-052. The Special Exception Plat associated with SEA 98-P-051 (plat entitled "West*Gate - portion of Old Springhouse Road Land Bay" (sheets 1 through 16) prepared by Huntley Nyce & Associates, Ltd., dated May 18, 1998 and as revised through October 6, 2000) is incorporated herein by reference (the "Special Exception Plat"). The Owner(s) of Land Bay A-1, its successors and assigns ("Owner(s)" for purposes of this Proffer V), agrees to construct the above-grade pedestrian connection by the later of December 31, 2015 or the issuance of the shell Non-Residential Use Permit for the fourth/last building, subject to the following conditions:

1. Subject to the approval of the location and design of the Owner(s) proposed pedestrian connections to the future Metro Rail Station by WMATA and Fairfax County, as applicable, the Owner(s) shall construct at grade and an above-grade connection to the Metro Station as provided herein, at the Owner(s) cost.
2. The Owner(s) responsibility for constructing the above-grade connection is subject to (a) securing WMATA's approval at no cost to the Owner(s), other than the normally required application and permit fees and the costs of constructing the pedestrian connections. (b) the location of the Metro Rail Station remaining within the WMATA reserved area as reflected on the Special Exception Plat and with the elevated pedestrian

connection and the associated facilities remaining out of the RPA and wetlands located in the northeast corner of this site, (c) WMATA providing design data for the platform as referenced in paragraph 3 below and (d) WMATA having either (1) commenced construction of the Metro Rail Station or (2) WMATA and the Owner(s) providing the other a mutually acceptable construction phasing schedule that ensures the Rail Station and the elevated pedestrian connection will be completed concurrently

3. The Owner(s) shall cooperate, diligently pursue and request in writing that WMATA provide, no later than December 31, 2010, design data for the platform. Design data shall include schematic design, the general location, and elevation of the platform, the vertical and horizontal location of the platform, and the tie-in point for the pedestrian connection.
4. The Owner(s) shall provide all civil and foundation engineering data for the above-grade pedestrian connection and structural drawings to DPWES for review and approval.
5. If WMATA is unable to provide the data as noted in paragraph 3 above by December 31, 2010, the proffer shall become null and void in its entirety.
6. The Owner(s) shall construct, up to the edge of its Property line, at grade pedestrian connection(s) to the Metro Rail Station right-of-way in order to foster and encourage access to the Metro Rail Station. Said construction shall be governed by and phased according to the conditions of SEA 98-P-051.
7. Should SEA 98-P-051 be denied or withdrawn, this entire Proffer V shall be rendered null and void and have no further force or effect. Furthermore, should the Option 1 site layout as shown on SEA 98-P-051 not be elected for pursuit at the time of site plan review and approval, this entire Proffer V shall be rendered null and void and have no further force or effect.
8. Should the Owner(s) of Land Bay A-1 seek a Proffer Condition Amendment in the future to amend this Proffer V, the Owner(s) may do so without the joinder, consent or permission of any other owner or property except for any owner(s) or property within Land Bay A-1, as said Land Bay is defined by PCA 92-P-001-2 and PCA 1998-PR-052; it being specifically acknowledged that the Owner(s) will not need the consent or joinder

of Fairfax County, The Commonwealth of Virginia and/or WMATA (or any other governmental agencies), any of which may become an owner of a portion of Land Bay A-1 as a result of conveyance and/or dedication of land from Land Bay A-1 (necessary for the widening of Route 123 or 495 and/or construction of the future Metro Rail Station.

9. Should the current or any future Owner(s) sell or transfer all or any portion of Land Bay A-1, the Owner(s) shall notify the purchaser(s) (initial and/or subsequent purchaser(s)) in writing of this Proffer V and provide a copy of this entire Proffer Statement and all associated exhibits to the purchaser(s). In addition to such written disclosure, the Owner(s) shall complete a specific agreement with any said purchaser(s) allocating the costs and responsibilities for fulfilling these Proffer V commitments. The Owner(s) shall notify the following agencies of Fairfax County, in writing, of any such agreement, providing these agencies with a general description of the allocation of costs and responsibilities of the parties for the fulfillment of this Proffer V: DPWES, Fairfax County Office of Transportation, the Department of Planning and Zoning and the Providence District Supervisor's Office.

VI. COUNTERPARTS. To facilitate execution, this Proffer Statement may be executed in as many counterparts as may be required. It shall not be necessary that the signature on behalf of all the parties to this Proffer Statement appear on each counterpart of this Proffer Statement. All counterparts of this Proffer Statement shall collectively constitute a single instrument.

WEST*GROUP PROPERTIES LLC (Land Bays A-1, A-2, B-2, B-3, B-4, B-5, B-6 and C)

By: G. T. Halpin
G. T. Halpin, President

THE MITRE CORPORATION (Land Bay B-1)

By: _____
Lewis Fincke, Vice President, Chief Financial Officer and Treasurer

Fairfax County Board of Supervisors (Portion of public rights-of-way for Old Springhouse Road) _____

By: _____
Anthony H. Griffin, County Executive

Capital One Financial Corporation (Contingent Contract Purchaser – Land Bay A-1)

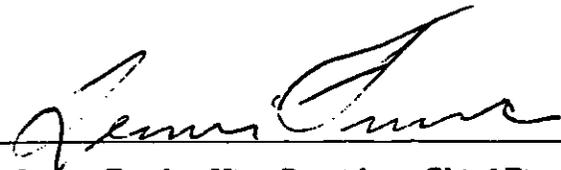
By: _____
Barry L. Mark

WEST*GROUP PROPERTIES LLC (Land Bays A-1, A-2, B-2, B-3, B-4, B-5, B-6 and C)

By: _____

G. T. Halpin, President

THE MITRE CORPORATION (Land Bay B-1)

By:  _____

Lewis Fincke, Vice President, Chief Financial Officer and Treasurer

Fairfax County Board of Supervisors (Portion of public rights-of-way for Old Springhouse Road)

By: _____

Anthony H. Griffin, County Executive

Capital One Financial Corporation (Contingent Contract Purchaser – Land Bay A-1)

By: _____

Barry L. Mark

WEST*GROUP PROPERTIES LLC (Land Bays A-1, A-2, B-2, B-3, B-4, B-5, B-6 and C)

By: _____

G. T. Halpin, President

THE MITRE CORPORATION (Land Bay B-1)

By: _____

Lewis Fincke, Vice President, Chief Financial Officer and Treasurer.

Fairfax County Board of Supervisors (Portion of public rights-of-way for Old Springhouse Road) _____

By: _____

Anthony H. Griffin, County Executive

Capital One Financial Corporation (Contingent Contract Purchaser – Land Bay A-1)

By: Barry L. Mark

Barry L. Mark

VEST*GROUP PROPERTIES LLC (Land Bays A-1, A-2, B-2, B-3, B-4, B-5, B-6 and C)

By: _____

G. T. Halpin, President

THE MITRE CORPORATION (Land Bay B-1)

By: _____

Lewis Fincke, Vice President, Chief Financial Officer and Treasurer

Fairfax County Board of Supervisors (Portion of public rights-of-way for Old Springhouse Road)

By:  _____

Anthony H. Griffin, County Executive

Capital One Financial Corporation (Contingent Contract Purchaser – Land Bay A-1)

By: _____

Barry L. Mark