PROFFERS
PCA 88-D-005-4
June 21, 1999

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(s), WEST*GROUP PROPERTIES LLC, ***WEST*PARK Associates Limited Partnership, and West*Mac Associates Limited Partnership,*** their successors and assigns, reaffirm Proffers dated August 23, 1995, a copy of which is attached as Exhibit A, which shall remain in full force and effect except as amended by Proffers dated February 26, 1999 (attached as Exhibit B) and as follows:

I. Generalized Development Plan ("GDP"). The location of buildings shown on the GDP dated September 5, 1990 and revised on October 4, 1994 and August 15, 1995 and February 23, 1999 ***and April 12, 1999*** shall be considered for illustrative purposes only. Specific tabulations for floor area ratios, open space, parking, and final location of proposed buildings and parking structures 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 Fairfax County Planning Commission for review for conformance with these proffers. The GDP is not proffered in its entirety, but certain elements of the GDP as specifically defined and described below are proffered.

A. Floor Area Ratios ("FAR"). The total FAR on the 199.4813 acre Gross Tract Area (as defined below) for all uses permitted in the C-3 Zoning District by right shall not exceed 0.6096 FAR or 5,297,325 of non-residential square feet. The implementation of Density Transfer from Sub Unit L-4, defined herein, is described in definition of Land Bay A. However, individual Building Sites (as defined below) within each Land Bay may exceed a 1.0 FAR.

Definitions:

Gross Tract Area shall be defined as the total FAR on the 189.4852 acres of land plus the 5.7961 acres of land previously dedicated to public use or right-of-way, plus the 4.2 acres of land dedicated for the Destination Station, totaling 199.4813 acres for density computation purposes.

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

Land Bays shall be defined as follows (and shown on the GDP):

o Land Bay A-1, A-2, A-3, A-4, A-5 and ***A-6*** and collectively referred to as Land Bay A (consisting of ***111.1221*** acres of land and 1.9788 acres of land of previously dedicated right-of-way, for a total of ***113.1009*** acres of land for density calculation purposes). It is further understood that the total gross floor area of 2,305,011 square feet attributed to this land bay includes 503,223 square feet from Tax Map Parcel 29-4((7))B (Sub Unit L-4) as-built site plan pursuant to definition of Density Transfer as defined in Proffers dated August 23, 1995. It is further understood that the total gross floor area of 2,305,011 square feet attributed to this land bay shall include 102,349 square feet of additional floor area beyond that approved pursuant to PCA 88-D-005-2.

Density Transfer. Pursuant to the Alternative Land Use heading in the Tysons Corner Urban Center Addendum to the Comprehensive Plan for Fairfax County (the "Plan") and Land Unit Recommendations for Land Unit L, Sub Unit L-4, the Applicant shall be entitled to transfer a maximum of 508,247 square feet of non-residential floor area from Tax Map 29-4 ((7)) B (Sub Unit L-4 of the Plan) to the portion of Sub Units L-1 and L-3 defined as the 110.4235 acre Land Bay A as described herein. Such floor area shall transfer to the 110.4235 acre Land Bay A of WEST*PARK at the time the site plan for the residential development approved under RZ 95-P-011 is secured by the posting of a Bond and Agreement with the Director of Environmental Management. Upon the posting of such Bond and Agreement, the density shall transfer and building permits for the transferred non-residential development may be issued. Upon bonding of the residential site plan, WEST*PARK Associates shall have a maximum total of 2,207,686 square feet of non-residential floor area associated with Land Bay A.

The exact amount of non-residential floor area to be transferred from Sub Unit L-4 to Land Bay A shall be based on the amount of gross floor area for all residential buildings, exclusive of cellars, outside balconies which do not project more than six feet

beyond the exterior wall of the buildings, parking structures, above and below grade, unconditioned breezeways and corridors, covered garages and roof top mechanical structures, but inclusive of community uses such as the clubhouse and leasing offices shown on the bonded site plan for the residential development allowed by RZ 95-P-011 subject to the following formula:

(698,688 square feet) - (A x 0.33) = B; where:

- 698,688 square feet equals the planned non-residential intensity as calculated for Sub Unit L-4 in the Plan based on a 0.8 FAR on 20.0496 acres of land, including previously dedicated Park Run Drive;
- A equals square feet of residential use as shown on an approved site plan;
- 0.33 equals the conversion factor in accordance with Alternative Land Use recommendations in the Comprehensive Plan which requires the non-residential intensity of the property that is to be transferred to be reduced by one-third of the approved residential square footage; and
- B equals non-residential square feet to be transferred to WEST*PARK 110.4235 acre Land Bay A as defined herein.

Illustration based on preliminary estimates of residential floor area as shown on the FDP (actual residential floor area to be determined at site plan).

698,688 minus (661,000 x 0.33) equals 478,355 square feet; where:

- A equals 661,000 square feet (gross floor area proposed for residential use), and
- B equals 478,355 square feet, but not to exceed 508,247 square feet of non-residential intensity to be transferred to Land Bay A.

In the event the as-built site plan (a DEM prerequisite to bond release) indicates the actual floor area of residential development is less than that shown on the initial bonded site plan, then additional density created by the difference between the initial bonded site plan and the as-built site plan may be transferred to WEST*PARK Land Bay A. However, in no circumstance shall the total density transfer exceed 508,247 square feet nor shall the total non-residential FAR for Land Bays A, B, C, D and E (Plan

reference Sub Units L-1 and L-3) exceed 5,200,000 square feet as prescribed in the "Option without Rail" Land Use recommendation for Sub Units L-1 and L-3 in the Plan.

- Land Bay B (consisting of 1.8366 acres);
- Land Bay C (consisting of 8.7000 acres);
- Land Bay D-1 and D-2 (consisting of ***37.8168*** acres of land and 8.0173 acres for land dedicated for public use and right-of-way, for a total of ***45.8341*** acres of land for density calculation purposes); and
- Land Bay E (consisting of 30.0097 acres notwithstanding that said total land area may be subdivided into two (2) or more lots of record, with one (1) lot consisting of approximately 5.0 acres containing only a stormwater management facility). It is further understood that the entire amount of gross floor area (1,307,223 square feet attributed to this land bay) may be located on the remaining +/-25 acres of the site, notwithstanding the fact that this may result in an FAR that exceeds 1.0 when calculated only on the +/-25 acres.

Sub Units L-1 and L-3 is the Tysons Corner Urban Plan definition of the area equivalent to the Gross Tract Area as defined herein.

Sub Unit L-4 is the Tysons Corner Urban Plan definition of Tax Map Parcel 29-4 ((7)) B and is further described as the residential land associated with the density transfer element of Land Bay A herein. Sub Unit L-4 is not part of the Gross Tract Area as defined herein.

I.B. Bulk Regulations - No change

1. Height - No change

a) - No change

b) - No change

c) - No change

2 - No change

I.C. Setbacks from the Dulles Airport Access Road (DAAR) - No change

I.D. Landscaping - No change

I.E. Transitional Screening and Barrier

1. No change

2. No change

3. Land Bay *A-6* (along the contiguous property line between Land Bay *A-6* and R-30 property to the west). The Private Open Space as defined and as shown on the GDP shall be deemed to meet the Transitional Screening and Barrier requirements of the ZO.

4. No change

5. No change

I.F. Trail Systems - No change

I.G. Storm Water Management

1. Land Bays D-1, D-2 and *A-6*. Storm Water Management (SWM) and Best Management Practices (BMP) have been reviewed, approved and constructed for this area pursuant to a Plan entitled West*Mac Storm Drainage Study 6796-D-01 approved by DEM on March 25, 1988. Other requirements, if any shall be in accordance with applicable County ordinances as approved by the ***Department of Public Works and Environmental Services ("DPWES").***

I.G.2 – No change.

I.G.3 – No change.

I.H. Conservation Storm Drainage Easement - No change

I.I. Limits of Clearing and Grading, Private Open Space, Storm Drainage, Conservation Easements and/or Minor Flood Plain Easements - No change

1,2,3 - No change

I.J. Private Open Space. The GDP shows certain areas designated as Private Open Space within Land Bays A-1, A-2, A-3, ***A-6*** and D-1. This Private Open Space is generally consistent with Private Open Space indicated in the Tysons Corner Master Plan as adopted by the Board of Supervisors on June 27, 1994. The Private Open Space shall be kept in a natural state and may include passive and active recreational uses, undisturbed natural areas, wooded areas, water bodies, water courses, including SWM and BMP facilities, lawn and landscaped areas and other similar or natural features designed and arranged to produce an aesthetically pleasing effect within the Land Bay(s). The Private Open Space shall be set aside for the use and enjoyment of the

Applicants. The Private Open Space shall not be dedicated as public lands and shall remain in the ownership of the Applicants. Where Private Open Space and Transitional Screening and Barrier yards coincide, the Private Open Space shall be deemed as meeting the Transitional Screening and Barrier requirements. Any area disturbed in the Private Open Space shall be replaced pursuant to Proffer I.1, except in the case where SWM/BMP's are constructed within the Private Open Space. Where SWM/BMP construction occurs, Proffer I.1 or 2 shall not be required.

II. Treatment of Cellar Space - No change

III. Noise Attenuation - No change

IV.A Destination Station - No change

1,2,3,4,5,6,7 - No change

IV.B Tysons Corner Area Wide Transportation Contribution - No change

1,2,3 No change.

IV.C Signalization - No change

IV.D Jones Branch Drive Improvements - No change

IV.E. Transportation System Management – No change

V. Contract Purchaser - No change.

VI. Counterparts - No change.

WEST*GROUP PROPERTIES LLC (Owners of Land Bay A-1, A-2, A-3, A-4 and A-6)

G. T. Halpin

G. T. Halpin, President

WEST*PARK Associates Limited Partnership (Owners of Land Bay A-5)

G. T. Halpin

G. T. Halpin, General Partner

West*Mac Associates Limited Partnership (Owners of Land Bay D-1 and D-2)
By: Federal Home Loan Mortgage Corporation
General Partner

By: William J. Menda

William J. Menda
Vice President, Administration and Corporate Properties

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PCA 88-D-005-3
Exhibit A

PCA 88-D-005-4
Exhibit A

PROFFERS

PCA 88-D-005-2

August 23, 1995

Pursuant to 15.1-491(a) 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 Proffer Condition Amendment ("PCA"), Applicants West*Mac Associates Limited Partnership, WEST*PARK Associates Limited Partnership, Washington Hall Corporation, The Association for Manufacturing Technology, and their successors and assigns (hereinafter "Applicants") hereby proffer to the following conditions. If this PCA is approved, the proffered conditions described below supersede all previously approved proffered conditions applicable to the property. The property (hereinafter referred to as the "Subject Property") consists of approximately 193.5394 acres. The word "Applicants" shall be used when proffers relate to the Subject Property in its entirety. Any future modification(s) to these proffers which affect only a specific building 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 or land bay without amending this entire proffer statement or Generalized Development Plan. The word "Applicant" shall mean the owner of any specific building or land bay.

I. Generalized Development Plan ("GDP"). The location of buildings shown on the GDP dated September 5, 1990 and revised on October 4, 1994 and August 15, 1995 shall be considered for illustrative purposes only. Specific tabulations for floor area ratios, open space, parking, and final location of proposed buildings and parking structures 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 Fairfax County Planning Commission for review for conformance with these proffers. The GDP is not proffered in its entirety, but certain elements of the GDP as specifically defined and described below are proffered.

A. Floor Area Ratios ("FAR"). The total FAR on the 199.4813 acre Gross Tract Area (as defined below) for all uses permitted in the C-3 Zoning District by right shall not exceed 0.599 FAR or 5,200,000 of non-residential square feet. The implementation of Density Transfer from Sub Unit L-4, defined herein, is described in definition of Land Bay A. However, individual Building Sites (as defined below) within each Land Bay may exceed a 1.0 FAR.

Definitions:

Gross Tract Area shall be defined as the total FAR on the 189.4852 acres of land plus the 5.7961 acres of land previously dedicated to public use or right-of-way, plus the 4.2 acres of land dedicated for the Destination Station, totalling 199.4813 acres for density computation purposes.

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

Land Bays shall be defined as follows (and shown on the GDP):

o Land Bay A-1, A-2, A-3, A-4 and A-5 and collectively referred to as Land Bay A (consisting

of 108.4447 acres of land and 1.9788 acres of land of previously dedicated right-of-way, for a total of 110.4235 acres of land for density calculation purposes). It is further understood that the total gross floor area of 2,207,686 square feet attributed to this land bay shall include a maximum of 508,247 square feet transferred from Tax Map Parcel 29-4 ((7)) B (Sub Unit L-4).

Density Transfer. Pursuant to the Alternative Land Use heading in the Tysons Corner Urban Center Addendum to the Comprehensive Plan for Fairfax County (the "Plan") and Land Unit Recommendations for Land Unit L, Sub Unit L-4, the Applicant shall be entitled to transfer a maximum of 508,247 square feet of non-residential floor area from Tax Map 29-4 ((7)) B (Sub Unit L-4 of the Plan) to the portion of Sub Units L-1 and L-3 defined as the 110.4235 acre Land Bay A as described herein. Such floor area shall transfer to the 110.4235 acre Land Bay A of WEST*PARK at the time the site plan for the residential development approved under RZ 95-P-011 is secured by the posting of a Bond and Agreement with the Director of Environmental Management. Upon the posting of such Bond and Agreement, the density shall transfer and building permits for the transferred non-residential development may be issued. Upon bonding of the residential site plan, WEST*PARK Associates shall have a maximum total of 2,207,686 square feet of non-residential floor area associated with Land Bay A.

The exact amount of non-residential floor area to be transferred from Sub Unit L-4 to Land Bay A shall be based on the amount of gross floor area for all residential buildings, exclusive of cellars, outside balconies which do not project more than six feet beyond the exterior wall of the buildings, parking structures, above and below grade, unconditioned

breezeways and corridors, covered garages and roof top mechanical structures, but inclusive of community uses such as the clubhouse and leasing offices shown on the bonded site plan for the residential development allowed by RZ 95-P-011 subject to the following formula:

(698,688 square feet) - (A x 0.33) = B; where:

- ***698,688 square feet*** equals the planned non-residential intensity as calculated for Sub Unit L-4 in the Plan based on a 0.8 FAR on 20.0496 acres of land, including previously dedicated Park Run Drive;
- ***A*** equals square feet of residential use as shown on an approved site plan;
- ***0.33*** equals the conversion factor in accordance with Alternative Land Use recommendations in the Comprehensive Plan which requires the non-residential intensity of the property that is to be transferred to be reduced by one-third of the approved residential square footage; and
- ***B*** equals non-residential square feet to be transferred to WEST*PARK 110.4235 acre Land Bay A as defined herein.

Illustration based on preliminary estimates of residential floor area as shown on the FDP (actual residential floor area to be determined at site plan).

698,688 minus (661,000 x 0.33) equals 478,355 square feet; where:

- ***A*** equals 661,000 square feet (gross floor area proposed for residential use), and
- ***B*** equals 478,355 square feet, but not to exceed 508,247 square feet of non-residential intensity to be transferred to Land Bay A.

In the event the as-built site plan (a DEM prerequisite to bond release) indicates the actual

floor area of residential development is less than that shown on the initial bonded site plan, then additional density created by the difference between the initial bonded site plan and the as-built site plan may be transferred to WEST*PARK Land Bay A. However, in no circumstance shall the total density transfer exceed 508,247 square feet nor shall the total non-residential FAR for Land Bays A, B, C, D and E (Plan reference Sub Units L-1 and L-3) exceed 5,200,000 square feet as prescribed in the "Option without Rail" Land Use recommendation for Sub Units L-1 and L-3 in the Plan.

- Land Bay B (consisting of 1.8366 acres);
- Land Bay C (consisting of 8.7000 acres);
- Land Bay D-1 and D-2 (consisting of 40.4942 acres of land and 8.0173 acres for land dedicated for public use and right-of-way, for a total of 48.5115 acres of land for density calculation purposes); and
- Land Bay E (consisting of 30.0097 acres notwithstanding that said total land area may be subdivided into two (2) or more lots of record, with one (1) lot consisting of approximately 5.0 acres containing only a stormwater management facility). It is further understood that the entire amount of gross floor area (1,307,223 square feet attributed to this land bay) may be located on the remaining +/-25 acres of the site, notwithstanding the fact that this may result in an FAR that exceeds 1.0 when calculated only on the +/-25 acres.

<u>Sub Units L-1 and L-3</u> is the Tysons Corner Urban Plan definition of the area equivilant to the Gross Tract Area as defined herein.

<u>Sub Unit L-4</u> is the Tysons Corner Urban Plan definition of Tax Map Parcel 29-4 ((7)) B and is further described as the residential land associated with the density transfer element of Land Bay A herein. Sub Unit L-4 is not part of the Gross Tract Area as defined herein.

B. Bulk Regulations.

1. Height.

a) With the exception of buildings in Land Bays A-5, D-1 and E, the maximum height of buildings shall not exceed 90' except as qualified by paragraph B1(c) below.

b) Buildings within Land Bays A-5, D-1 and E shall not exceed 75' in height except as qualified by paragraph B1(c) below.

c) An increase in height for any building(s) in any Land Bay may be permitted by the Board of Supervisors in accordance with the applicable provisions of the ZO.

2. Minimum Yard Requirements shall meet the provisions of the ZO Requirements for the C-3 Zoning District, unless otherwise modified or waived by the Board of Supervisors.

C. Setbacks from the Dulles Airport Access Road (DAAR). Land Bays A-5, D-1 and E have frontage on the DAAR and are subject to the 75' minimum distance requirements set forth in Section 2-414 of the ZO. The 75' minimum distance requirement shall be provided unless a modification or waiver is approved by the Board of Supervisors.

D. Landscaping. Landscaping shall be provided for all future buildings in accordance with Articles 13 and 17-105, para. 8 of the ZO and the Public Facilities Manual. Unless otherwise modified or waived by the Board of Supervisors, all landscaping shall generally conform to Sheet 6 of 6 of the GDP which represents the species and quantities of existing landscaping within the Gross Tract Area. Unless otherwise modified or waived by the Board of Supervisors and/or the Director of Environmental Management, all deciduous and ornamental trees planted shall be a minimum of 2"-2 1/2" in caliper and all evergreen trees planted shall be a minimum of 6'-8' in height at the time of

planting.

E. Transitional Screening and Barrier.

1. Part of Land Bay D-1 (Jones Branch Drive frontage, excluding Outparcel A). Applicants shall and have provided transitional screening along the north side of Jones Branch Drive from the centerline of Park Run Drive west to the southwest property corner of Land Bay D-1 pursuant to Transitional Screening and Barrier Modification No. 9055 dated November 23, 1987 and its referenced landscape plan dated November 18, 1987 by Huntley, Nyce and Associates. The said modification amends the required transitional yard width to 10'-15' of save area with supplemental planting and waives the barrier requirements.

2. Land Bay D-1 (Dulles Airport Access Road frontage, excluding Outparcel A). Applicants shall provide an undisturbed save area along the southern side of the DAAR right-of-way line from the northeast property corner of Land Bay D-1, west for approximately 300' to the eastern point where the existing Storm Drainage and Conservation Easement intersects the DAAR right-of-way as shown on the GDP. The save area shall be 300 ' in length, average 50' in width, and result in a save area not less than 15,000 square feet in area. However, the averaging of the width dimension shall not result in a width dimension less than 35'. The save area shall be deemed to meet the Transitional Screening and Barrier requirements of the ZO.

3. Land Bay D-2 (along the contiguous property line between Land Bay D-2 and R-30 property to the west). The Private Open Space as defined and as shown on the GDP shall be deemed to meet the Transitional Screening and Barrier requirements of the ZO.

4. Land Bay A-5. Applicants shall and have provided transitional screening along the northern property line pursuant to Transitional Screening and Barrier Modification 8266

dated June 18, 1986 associated with the Fairfax Building Site Plan 6377-SP-01. The said modification amends the required transitional yard width from 35' to 25' of undisturbed area along the DAAR as shown on the approved site plan and waives the barrier.

5. Land Bay E. A 35' transitional screening yard shall be provided along the northern property line as generally shown on page 3 of 6 of the GDP.

F. Trail Systems. In lieu of the trail system as shown on the County-wide trails plan, continuous four-foot wide concrete sidewalks along all public street frontages shall be provided with each site plan submittal and installed prior to issuance of the first non-residential use permit for any building subject to an approved site plan showing sidewalk within the Subject Property. Applicants shall coordinate sidewalk connections with adjacent properties in the locations as shown on the GDP.

G. Storm Water Management.

1. Land Bays D-1 and D-2, Part of Land Bay A-1 (Building Site 19). Storm Water Management (SWM) and Best Management Practices (BMP) have been reviewed, approved and constructed for this area pursuant to a Plan entitled West*Mac Storm Drainage Study 6796-D-01-1 approved by DEM on March 25, 1988. Other requirements, if any, shall be in accordance with applicable County ordinances as approved by the Department of Environmental Management (DEM).

2. Land Bay E. Stormwater Management (SWM) and Best Management Practices (BMPs) shall be provided in accordance with applicable County ordinances as approved or modified by DEM and/or the Board of Supervisors. The exact shape and size of existing Pond C (the "Pond") and associated area as shown on the GDP is subject to change with final engineering. The applicant shall endeavor to preserve existing vegetation between the SWM/BMP facility and the DAAR. Landscaping, utilizing native vegetation to the maximum extent possible shall be provided

around the edge of the facility, as approved by DEM and the Urban Forester. The Resource Protection Area (the "RPA"), as approved by DEM, shall be preserved on the site. No clearing and grading shall be permitted within the RPA except for that necessary to construct and maintain the SWM/BMP facility.

3. Land Bays A-1 (Part) through A-5 inclusive, B and C. Stormwater Management (SWM) and Best Management Practices (BMPs) shall be provided in accordance with all applicable County Ordinances as may be approved or modified by the Director of Environmental Management. SWM/BMP facilities may be provided on a site-by-site basis at the time of individual site plan submittals, or SWM/BMP facilities may be provided as a "composite system", consisting of Ponds A, B, D, and Pond C (as referenced above), to provide SWM and BMP's for the currently undeveloped portion of the drainage area.

H. Conservation/Storm Drainage Easement. The area in Land Bay D-1 between Building 26 and Building 28 is defined by the Conservation/Storm Drainage Easement recorded at Deed Book 6927 at page 249 as generally shown on the GDP. The area shall be preserved in an undisturbed state, except minor construction as provided for in the easement document (utility crossing, trails, maintenance, etc.) which shall be installed so as to minimize disturbance. Applicants agree to identify and mark archaeological site 44FX1348 contained within the Conservation Easement. If site is to be impacted by any future construction, Applicants shall contact the Environmental and Heritage Resources Branch of the Office of Comprehensive Planning 30 days prior to commencement of construction activity to determine whether a Phase II archaeological study is necessary.

I. Limits of Clearing and Grading, Private Open Space, Storm Drainage, Conservation Easements and/or Minor Flood Plain Easements. Applicants shall use best efforts to adhere to the

delineation of land area for Limits of Clearing and Grading, Private Open Space, and Storm Drainage, Conservation and/or Minor Flood Plain Easements, all as generally shown on the GDP. The actual delineation of these land areas shall be established at time of final engineering and site plan approval. DEM may approve minor deviations from the limits of these land areas as shown on the GDP provided the Applicants provide on the building site or within the land bay and as adjacent or contiguous to the area of disturbance as possible, Applicants' choice of one of the following:

1. an area equal to the disturbed area; or

2. an area equal to 125% of the difference between the area shown on the GDP and the actual disturbed area, planted with deciduous trees 2" - 2 1/2" in caliper at time of planting, evergreens 4' - 6' in height at time of planting, ground cover and foundation plants in quantities and species approved by DEM or other re-vegetation or methods acceptable to DEM; or

3. a combination of 1 and 2 above.

J. Private Open Space. The GDP shows certain areas designated as Private Open Space within Land Bays A-1, A-2, A-3, D-1 and D-2. This Private Open Space is generally consistent with Private Open Space indicated in the Tysons Corner Master Plan as adopted by the Board of Supervisors on June 27, 1994. The Private Open Space shall be kept in a natural state and may include passive and active recreational uses, undisturbed natural areas, wooded areas, water bodies, water courses, including SWM and BMP facilities, lawn and landscaped areas and other similar or natural features designed and arranged to produce an aesthetically pleasing effect within the Land Bay(s). The Private Open Space shall be set aside for the use and enjoyment of the Applicants. The Private Open Space shall not be dedicated as public lands and shall remain in the ownership of the Applicants. Where Private Open Space and Transitional Screening and Barrier yards coincide, the

Private Open Space shall be deemed as meeting the Transitional Screening and Barrier requirements. Any area disturbed in the Private Open Space shall be replaced pursuant to Proffer I. 1, except in the case where SWM/BMP's are constructed within the Private Open Space. Where SWM/BMP construction occurs, Proffer I. 1 or 2 shall not be required.

II. **Treatment of Cellar Space.** Cellars, as defined in Article 20 of the Zoning Ordinance, may be used for any permitted use listed in Sect. 4-302 of the Ordinance; however, office use shall be limited to a maximum of 50 percent of the cellar space. The term "office" as defined herein shall not include "data processing centers", thus the 50 percent limitation on "office use" shall exclude any limitation on data processing center areas. Under no circumstances shall cellar space be computed as Floor Area, Gross, as defined in the Ordinance, for floor area ratio (FAR) computations, regardless of use. Cellar space shall be calculated for off-street parking requirements in accordance with the provisions set forth in Article 11, Sect. 11-102 of the Ordinance.

III. **Noise Attenuation.** Applicants agree to provide materials and construction methods which have characteristics that limit interior noise level to 50 DBA Ldn in all future buildings located north and east of Jones Branch Drive if those areas have highway noise levels greater than 70 DBA Ldn. Principal buildings constructed within the affected area may be treated with the following acoustical attributes to mitigate noise levels:

- Exterior walls shall have a laboratory sound transmission class (STC) of at least 39.
- Doors and windows shall have an STC rating of at least 28.
- Adequate measures to seal and caulk surfaces will be provided.

IV. Transportation Proffers.

A. Destination Station. On January 11, 1991, Applicants dedicated and conveyed in fee simple to the Board of Supervisors a 4.2 acre parcel of land (hereinafter referred to as "Outparcel A") as depicted on the GDP subject to the following conditions:

1. Recordation of a restrictive covenant, which was incorporated into the Deed for Outparcel A. Said covenant limits the use of Outparcel A to a bus destination station, kiss and ride lot, or mass transit facility. Further, the covenant specifically precludes the use of the site as a general or commercial parking lot.

2. The Applicants shall provide post-development storm water detention for Outparcel A up to but not exceeding the volume of the original design computation level as indicated on 6796-DS-01-1 as approved on March 25, 1988 associated with Outparcel A.

3. As a result of the conveyance of Outparcel A to the Board of Supervisors, any necessary approvals for Outparcel A for uses described in I.1 above shall not require Applicants to file a special exception or proffered condition amendment on Subject Property.

4. Dedication of Outparcel A is be deemed to be subject to an advanced dedication and reservation of density pursuant to Paragraph 5 of Article 2-308 for 128,065 square feet (4.2 acres x 43,560 x 0.69 FAR) and such density credit is included and may be used in FAR calculations for any buildings or sites within the 199.48 acre application.

5. Provision of a 25-foot wide transitional screening yard and barrier situated entirely upon Outparcel A along the eastern side of Outparcel A to buffer the Destination Station from Land Bay D-1.

6. The extent of this obligation extends solely to the 4.2 acre site shown on the GDP inclusive of any future right-of-way or easement dedications.

7. Upon conveyance of Outparcel A, Applicant provided to Fairfax County $100,000.00 for an architectural and engineering design of the Destination Station.

B. Tysons Corner Area Wide Transportation Contribution.

1. At time of building permit, Applicants shall contribute to Fairfax County $2.85 per FAR square foot (gross floor area, excluding cellar) for each new FAR square foot shown on approved site plan, including FAR transferred from Tax Map Parcel 29-4 ((7)) B, with the following exceptions:

- All existing buildings shall be exempt from $2.85 payment to the extent that there is no increase in FAR square feet (gross floor area, excluding cellar) above the area shown in "Floor Area Computation" Table appearing on sheet 5 of 6 in the GDP dated September 5, 1990.
- Building 18 as shown on the GDP, which is 139,474 FAR square feet.
- Buildings 26, 27, 28, 29, and 30 inclusive comprising 1,460,194 gross square feet on 48.5115 acres of land area.

2. The $2.85 per square foot, as increased by escalations to the Engineering News Record, Construction Cost Index from the date of rezoning approval, October 3, 1990, shall be paid directly to the County of Fairfax at issuance of building permits for the applicable building area and shall be used for Tysons Corner Area Wide Transportation Improvements in order of the following priorities as determined by the Board of Supervisors:

- Destination Station on Outparcel A.

o Additional toll lanes and toll booths on the Dulles Access Road.

o Metrorail or Dartrail design and development.

3. Applicants shall contribute $7,500.00 per acre in lieu of $2.85 square feet described in IV.B.1 above for Tysons Corner Area Wide Transportation Fund improvements upon issuance of building permit for Building 30 or within five (5) years of the date of the Board's approval of this rezoning application, whichever first occurs. Said contribution shall not exceed $101,625.00 ($7,500.00 x 13.5 acres).

Applicants have previously paid $232,500.00 ($7,500.00 x 31 acres) for Buildings 26, 27, 28, 29 and Outparcel A. Therefore, Buildings 26, 27, 28, 29 and any density credit for Outparcel A (Destination Station 4.2 acres) shall be exempt from $2.85 per square foot contribution as outlined in paragraph IV.B.1 above.

C. Signalization. Applicants shall design and escrow funds, as determined by Virginia Department of Transportation ("VDOT"), for traffic signal equipment and installation at the intersection of Park Run Drive and Jones Branch Drive and at the intersection of Park Run Drive and Westpark Drive, subject to the approval of VDOT. The traffic signal design and installation at the intersection of Park Run Drive and Jones Branch Drive was completed as of June 27, 1994. The traffic signal design and escrow at the intersection of Park Run Drive and Westpark Drive shall be provided when necessary warrants are met as determined by VDOT or at time of issuance of non-residential use permit for Building 30, or December 31, 1995, whichever is earlier.

D. Jones Branch Drive Improvements. On March 4, 1992, the Applicants dedicated 6351 square feet or 0.1458 acres of right-of-way along the property's Jones Branch Drive frontage of a sufficient width to provide an additional lane on the north side of the westbound approach of existing

Jones Branch Drive from Park Run Drive to the east side of Springhill Road/International Drive intersection. The dedication of land associated with this proffer shall be deemed to constitute an advance dedication with reservation of density pursuant to Article 2-308, Paragraph 5 of the ZO. Applicants constructed the additional lane within the dedicated right-of-way as above described and the VDOT Bond was released on September 24, 1992.

E. Transportation System Management.

1. Applicant agrees solely to provide $30,000.00 a year for nine (9) consecutive years to partially fund a Tysons Transportation Association (TYTRAN) employed Transportation Coordinator commencing January 20, 1994 (the date of first payment) in accordance with a Final TSM Program dated October 15, 1993, and as approved by the Director of the Office of Transportation, the Applicants, and TYTRAN.

V. Contract Purchaser. Pursuant to 15.1-491(a) of the Code of Virginia, 1950 as amended, and Section 18-203 of the Zoning Ordinance of the County of Fairfax (1978 as amended), the Contract Purchaser of Land Bay E, for itself and its successors and assigns, shall be bound by these proffers if, and only if, it acquires any portion of the property.

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*PARK Associates Limited Partnership (Owners of Land Bays A-1, A-2, A-3, A-4, A-5, and E)

By: Eagle Management Corporation
General Partner

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

The Association for Manufacturing Technology (AMT) (Owner of Land Bay B)

By: _____
Albert W. Moore
President

West*Mac Associates Limited Partnership (Owners of Land Bays D-1 and D-2)

By: Federal Home Loan Mortgage Corporation
General Partner

By: Maxine B. Stokes
Maxine B. Stokes
Vice President, Administration
and Corporate Properties

Washington Hall Corporation (Owner of Land Bay C)

By: Motoaki Nishimiya

~~Anthony B. Kuklin~~ Motoaki Nishimiya

Vice President

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[*]

Gannett Co., Inc. (Contract Purchaser of Land Bay E)

By: _____
Jimmy L. Thomas
Senior Vice President

Fairfax County Board of Supervisors (Owner of Outparcel A)

By: _____
William J. Leidinger
County Executive

PROFFERS
PCA 88-D-005-3
February 26, 1999

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 August 23, 1995, a copy of which is attached as Exhibit A, which shall remain in full force and effect except as follows:

I. **Generalized Development Plan** ("GDP"). The location of buildings shown on the GDP dated September 5, 1990 and revised on October 4, 1994 and August 15, 1995 *and February 23, 1999* shall be considered for illustrative purposes only. Specific tabulations for floor area ratios, open space, parking, and final location of proposed buildings and parking structures 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 Fairfax County Planning Commission for review for conformance with these proffers. The GDP is not proffered in its entirety, but certain elements of the GDP as specifically defined and described below are proffered.

A. Floor Area Ratios ("FAR"). The total FAR on the 199.4813 acre Gross Tract Area (as defined below) for all uses permitted in the C-3 Zoning District by right shall not exceed *0.6096* FAR or *5,297,325* of non-residential square feet. The implementation of Density Transfer from Sub Unit L-4, defined herein, is described in definition of Land Bay A. However, individual Building Sites (as defined below) within each Land Bay may exceed a 1.0 FAR.

Definitions:

Gross Tract Area shall be defined as the total FAR on the 189.4852 acres of land plus the 5.7961 acres of land previously dedicated to public use or right-of-way, plus the 4.2 acres of land dedicated for the Destination Station, totaling 199.4813 acres for density computation purposes.

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

Land Bays shall be defined as follows (and shown on the GDP):

o Land Bay A-1, A-2, A-3, A-4 and A-5 and collectively referred to as Land Bay A (consisting of 108.4447 acres of land and 1.9788 acres of land of previously dedicated right-of-way, for a total of 110.4235 acres of land for density calculation purposes). It is further understood that the total gross floor area of *2,305,011* square feet attributed to **this land bay** ***includes 503,223 square feet from Tax Map Parcel 29-4((7))B (Sub Unit L-4) as-built site plan pursuant to definition of Density Transfer as defined in Proffers dated August 23, 1995. It is further understood that the total gross floor area of 2,305,011 square feet attributed to this land bay shall include 102,349 square feet of additional floor area beyond that approved pursuant to PCA 88-D-005-2.***

Density Transfer. Pursuant to the Alternative Land Use heading in the Tysons Corner Urban Center Addendum to the Comprehensive Plan for Fairfax County (the "Plan") and Land Unit Recommendations for Land Unit L, Sub Unit L-4, the Applicant shall be entitled to transfer a maximum of 508,247 square feet of non-residential floor area from Tax Map 29-4 ((7)) B (Sub Unit L-4 of the Plan) to the portion of Sub Units L-1 and L-3 defined as the 110.4235 acre Land Bay A as described herein. Such floor area shall transfer to the 110.4235 acre Land Bay A of WEST*PARK at the time the site plan for the residential development approved under RZ 95-P-011 is secured by the posting of a Bond and Agreement with the Director of Environmental Management. Upon the posting of such Bond and Agreement, the density shall transfer and building permits for the transferred non-residential development may be issued. Upon bonding of the residential site plan, WEST*PARK Associates shall have a maximum total of 2,207,686 square feet of non-residential floor area associated with Land Bay A.

The exact amount of non-residential floor area to be transferred from Sub Unit L-4 to Land Bay A shall be based on the amount of gross floor area for all residential buildings, exclusive of cellars, outside balconies which do not project more than six feet beyond the exterior wall of the buildings, parking structures, above and below grade,

unconditioned breezeways and corridors, covered garages and roof top mechanical structures, but inclusive of community uses such as the clubhouse and leasing offices shown on the bonded site plan for the residential development allowed by RZ 95-P-011 subject to the following formula:

(698,688 square feet) - (A x 0.33) = B; where:

- **698,688 square feet** equals the planned non-residential intensity as calculated for Sub Unit L-4 in the Plan based on a 0.8 FAR on 20.0496 acres of land, including previously dedicated Park Run Drive;
- **A** equals square feet of residential use as shown on an approved site plan;
- **0.33** equals the conversion factor in accordance with Alternative Land Use recommendations in the Comprehensive Plan which requires the non-residential intensity of the property that is to be transferred to be reduced by one-third of the approved residential square footage; and
- **B** equals non-residential square feet to be transferred to WEST*PARK 110.4235 acre Land Bay A as defined herein.

Illustration based on preliminary estimates of residential floor area as shown on the FDP (actual residential floor area to be determined at site plan).

698,688 minus (661,000 x 0.33) equals 478,355 square feet; where:

- **A** equals 661,000 square feet (gross floor area proposed for residential use), and
- **B** equals 478,355 square feet, but not to exceed 508,247 square feet of non-residential intensity to be transferred to Land Bay A.

In the event the as-built site plan (a DEM prerequisite to bond release) indicates the actual floor area of residential development is less than that shown on the initial bonded site plan, then additional density created by the difference between the initial bonded site plan and the as-built site plan may be transferred to WEST*PARK Land Bay A. However, in no circumstance shall the total density transfer exceed 508,247 square feet nor shall the total non-residential FAR for Land Bays A, B, C, D and E (Plan reference Sub Units L-1 and L-3) exceed 5,200,000 square feet as prescribed in the

"Option without Rail" Land Use recommendation for Sub Units L-1 and L-3 in the Plan.

- Land Bay B (consisting of 1.8366 acres);
- Land Bay C (consisting of 8.7000 acres);
- Land Bay D-1 and D-2 (consisting of 40.4942 acres of land and 8.0173 acres for land dedicated for public use and right-of-way, for a total of 48.5115 acres of land for density calculation purposes); and
- Land Bay E (consisting of 30.0097 acres notwithstanding that said total land area may be subdivided into two (2) or more lots of record, with one (1) lot consisting of approximately 5.0 acres containing only a stormwater management facility). It is further understood that the entire amount of gross floor area (1,307,223 square feet attributed to this land bay) may be located on the remaining +/-25 acres of the site, notwithstanding the fact that this may result in an FAR that exceeds 1.0 when calculated only on the +/-25 acres.

Sub Units L-1 and L-3 is the Tysons Corner Urban Plan definition of the area equivalent to the Gross Tract Area as defined herein.

Sub Unit L-4 is the Tysons Corner Urban Plan definition of Tax Map Parcel 29-4 ((7)) B and is further described as the residential land associated with the density transfer element of Land Bay A herein. Sub Unit L-4 is not part of the Gross Tract Area as defined herein.

I.B. Bulk Regulations - No change

1. Height - No change

a) - No change

b) - No change

c) - No change

2 - No change

I.C. Setbacks from the Dulles Airport Access Road (DAAR) - No change

I.D. Landscaping - No change

I.E. Transitional Screening and Barrier

1. No change

2. No change

3. No change

4. No change

5. No change

I.F. Trail Systems - No change

I.G. Storm Water Management

1,2,3 - No change

I.H. Conservation Storm Drainage Easement - No change

I.I. Limits of Clearing and Grading, Private Open Space, Storm Drainage, Conservation Easements and/or Minor Flood Plain Easements - No change

1,2,3 - No change

I.J. Private Open Space - No change

II. Treatment of Cellar Space - No change

III. Noise Attenuation - No change

IV.A Destination Station - No change

1,2,3,4,5,6,7 - No change

IV.B Tysons Corner Area Wide Transportation Contribution - No change

1,2,3 No change.

IV.C Signalization - No change

IV.D Jones Branch Drive Improvements - No change

IV.E. Transportation System Management.

The Applicant agrees to enter into an Agreement with TYTRAN to implement a Transportation Demand Management Program ("Program") as generally described in Exhibit B (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/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 FXCO/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.

V. <u>Contract Purchaser</u> - No change.

VI. <u>Counterparts</u> - No change.

WEST*GROUP PROPERTIES LLC

G. T. Halpin

G. T. Halpin, President

PCA 88-D-005-3
Exhibit B

Transportation Demand Management Program between Applicant and TYTRAN

March 17, 1999

The Tysons Corner Urban Center Plan establishes an overall 20% mode split goal for HOV trips to and from the Tysons Corner area through Transportation Demand Management (hereinafter called "TDM") efforts and major improvements in the transit system. TYTRAN agrees to implement and operate a TDM program on behalf of the Applicant as follows:

1. The Applicant, at the initial signing of a lease or renewal of existing leases(s), shall advise each tenant with 100 employees or more that a private TDM program exists and a public TDM program exists and encourage them to participate. The "advice" shall be in the form of a paragraph which will be included in the transmittal of a signed lease or a separate letter and read as follows:

> "In an attempt to reduce single occupancy vehicles in the Washington Metropolitan area, and more specifically in the Tysons Corner area, you may wish to participate in a Transportation Demand Management (TDM) program which provides your employees with a variety of transportation and commuting programs. We encourage you to contact the following organizations and participate in one of the TDM programs available to you.:
>
> | | | | |
> |---|---|---|---|
> | 1. | TYTRAN | 2. | Fairfax County Department of Transportation |
> | | Phone: | | Phone: |
> | | Contact Person: | | Contact Person:" |

GMX

Note: A copy of the letter shall be sent to both public and private program managers. There is no obligation for the Applicant to send advisory letters after December 31, 2003; however, the Applicant may continue to do so on a volunteer basis.

2. The private TDM program shall be operated by TYTRAN, its employees contractors or agents, in the Tysons Corner area, and the program shall be consistent with the Council of Governments (hereinafter called "COG") Regional Employer Services Program (hereinafter called "RESP"), Level I at a minimum, as defined by COG and hereinafter referred to as TYTRAN/RESP. The TYTRAN/RESP will be provided to existing TYTRAN members with 100 or more employees and to other companies with 100 employees or more as they become members of TYTRAN.

3. The public TDM program may be operated by the Fairfax County Department of Transportation, its employees, contractors or agents and the program shall be consistent with the County Employer Services Program, hereinafter referred to as FXCO/DOT/ESP.

4. The Applicant shall pay TYTRAN $30,000 a year for four (4) years commencing January 31, 2000 and ending January 31, 2003, providing TYTRAN implements and operates their TYTRAN/RESP generally described as follows:

A. Commencing on January 31, 2000 and for each of the four (4) remaining years of the programs, TYTRAN/RESP shall provide FXCO/DOT/ESP information on employers with 100 or more employees participating in each program, including information relating to companies with 100 or more employees added to or deleted from each program in the prior year. Copies of this information shall be provided to the Applicant.

B. TYTRAN/RESP shall report TDM program activities to COG, with copies to FXCO/DOT/ESP and the Applicant, utilizing the ACT Software Program, or substitute or replacement software as may be approved by DOT and/or COG.

C. TYTRAN will attempt to schedule periodic meetings with appropriate parties at FXCO/DOT to discuss their programs and share mutually beneficial information. The Applicant shall be advised of the dates and times of scheduled meetings and receive a copy of meeting minutes within 10 days of the meeting.

D. Within 90 days of the approval of this Application by the Board of Supervisors, but no later than July 31, 1999, TYTRAN/RESP shall perform a mandatory initial survey (hereinafter called "Initial Survey") of employers with 100 or more employees located within the Subject Property, as well as all TYTRAN member companies with 100 or more employees, utilizing the Commuter Connection Regional Employer Services Program Survey. TYTRAN/RESP may supplement or add to the survey; however, no deletions shall be made. The results of the Initial Survey shall be provided to COG, with a copy to FXCO/DOT/ESP and the Applicant within 60 days of the completion of the Initial Survey, but no later than October 31, 1999. The Applicant shall reimburse TYTRAN/RESP for the printing and distribution cost of the Initial Survey, not to exceed $5,000.

E. TYTRAN/RESP may elect to perform a voluntary Follow-up Survey three (3) years from the date of the Initial Survey described above, but no later that December 31, 2003. The Follow-up Survey will be undertaken using generally the same survey form used in the Initial Survey described above. The results of the Follow-up Survey will be sent to COG, FXCO/DOT/ESP and the Applicant within 90 days of the completion of the survey. The Applicant shall reimburse TYTRAN/RESP for the cost of printing and distributing the Follow-up Survey, not to exceed $5,000.

No-Fault Comparison of Initial and Follow-up Survey. Any comparison between the two surveys shall be solely for the purpose of obtaining valuable statistical data and measuring TDM trends and forecasts. The data may be used by both the public and private programs to evaluate the effectiveness of their programs and evaluate any modifications to their programs that would improve results; however, under no circumstance shall the comparison of the two surveys be used

to determine compliance with this proffer.

5. Non Compliance Provision. The Applicant, at its sole discretion may terminate the Agreement with TYTRAN/RESP for their failure to implement and operate a TDM program as prescribed herein and more specifically for failure to meet reporting requirements of Paragraphs A, B, C and D above. In the event the Agreement is terminated for non-compliance, the Applicant will:

- Notify FXCO/DOT/ESP of termination and transfer relevant records in Applicant's possession, if any;
- Pay $30,000 a year to FXCO/DOT/ESP for unpaid years remaining pursuant to paragraph 4, above;
- Agree that the County may assume all authority and responsibility for TDM activities associated with any firm that had previously participated in the TYTRAN/RESP program.

6. Continuance or Cessation Provision. The Applicant and TYTRAN/RESP may agree that TYTRAN/RESP may continue to operate the TDM Program prescribed herein after December 31, 2003; however, the following conditions will be met:

a. TYTRAN/RESP shall notify the Applicant of its desire to continue the TDM program at levels meeting or exceeding previous year levels; and

b The Applicant must accept terms; and

c. The Agreement to extend must be ratified pursuant to paragraph 7 below.

In the event, the Applicant and TYTRAN/RESP agree to cease the TDM program prescribed herein after December 31, 2003, the Applicant shall notify FXCO/DOT in writing by November 30, 2003 that the Private TDM Program shall cease effective December 31, 2003. TYTRAN shall provide the Applicant with all relevant records associated with TYTRAN/RESP and the Applicant shall in turn provide copies of the records to FXCO/DOT.