

**ARBOR ROW BLOCK D**  
**PCA 2011-PR-023**  
**PROFFER STATEMENT**  
**July 30, 2015**  
**October 5, 2015**  
**December 30, 2015**  
**January 12, 2016**  
**February 19, 2016**  
**March 3, 2016**  
**March 15, 2016**  
**March 24, 2016**  
**April 1, 2016**  
**April 4, 2016**

Proffered Condition Amendment Application PCA 2011-PR-023 (the "**Application**") has been filed by and on behalf of (i) Cityline Partners LLC, as Applicant, (ii) Grayson 7913 Westpark LLC and Campbell-Scott Westpark LLC, as Owners, and (iii) Renaissance Centro Tysons LLC, as Contract Purchaser, on approximately 2.0 acres of land identified as Fairfax County Tax Map Parcel 29-4-((7))-2A and known as "Block D" of the Arbor Row development (the "**Block D Subject Property**"). The Block D Subject Property consists solely of Block D, which is located south of Westpark Drive and west of Jones Branch Drive Extended and zoned to the PTC-Planned Tysons Corner Urban ("PTC") District.

Pursuant to Sect. 15.2-2303(A) of the Code of Virginia (1950), as amended, and Sect. 18-204 of the Zoning Ordinance of Fairfax County (1978), as amended, the Applicant, Owners and Contract Purchaser, on behalf of themselves and their respective successors and/or assigns (referred to hereafter, both collectively and, where appropriate, individually as the "**Applicant**"), hereby proffer that redevelopment of the Block D Subject Property shall be in accordance with the following conditions (the "**Proffers**") if, and only if, the Application, as proposed by the Applicant, is granted by the Board of Supervisors (the "**Board**") allowing replacement of an approved hotel use with residential use. If the Application is granted by the Board, certain Proffers as identified below shall replace and supersede several of the existing proffered conditions applicable to the Block D Subject Property. Density attributable to the Block D Subject Property is not the result of transferring square footage from any other Arbor Row Blocks. All other Proffers accepted previously in RZ 2011-PR-023 for Blocks A, B, C, D, E and F and dated October 26, 2012 (the "**Existing Proffers**" attached in **Exhibit A**) shall remain in effect and be unchanged, except as noted herein. In the event this Application is denied by the Board, these Proffers shall immediately be null and void and all Existing Proffers accepted in RZ 2011-PR-023 shall remain in full force and effect.

The following Proffer changes and additions pertain to the Block D Subject Property only and shall modify the Existing Proffers with respect to the Block D Subject Property, as described below.

GENERAL

**Existing Proffer 1 amended as to the Block D Subject Property as follows:**

1. Substantial Conformance. Subject to the Proffers and the provisions of Sect. 6-500, Sect. 16-400 and Sect. 18-204 of the Zoning Ordinance of Fairfax County, as amended (the "**Zoning Ordinance**"), the Block D Subject Property shall be developed in substantial conformance with the proffered elements of the Arbor Row Conceptual Development Plan Amendment ("**CDPA**") dated March 30, 2015 as revised through March 17, 2016, prepared by Bowman Consulting Group, Ltd., WDG Architecture, PLLC, and Parker Rodriguez, Inc., and as further modified by these Proffers. The previously-approved Conceptual Development Plan dated April 26, 2011, as revised through October 5, 2012 and prepared by Bowman Consulting Group, Ltd., WDG Architecture, PLLC, Shalom Baranes

Associates, P.C., KGD Architecture and Parker Rodriguez, Inc. ("CDP") shall remain unchanged for Blocks A, B, C, E and F. In Existing Proffers being reaffirmed herein, references to the CDP shall also pertain to the CDPA on the Block D Subject Property.

**Reaffirm Existing Proffers 2, 3, 4, 5, 6 and 7, which shall remain unchanged.**

**Existing Proffer 8 amended as to the Block D Subject Property as follows:**

8. Fire Marshal. The Applicant has coordinated the layout depicted on the CDPA and the FDP for the Block D Subject Property with the Fire Marshal. Further changes to these plans shall be permitted in response to the review of site plans by the Fire Marshal, including adjustments to the streetscape and perimeter building areas as necessary to allow for required emergency vehicle access, provided such modifications are made in consultation with the Fairfax County Department of Planning and Zoning ("DPZ"), and the Fairfax County Department of Transportation ("FCDOT") and the Office of Community Revitalization ("OCR") and are in substantial conformance with the intent of the CDPA, FDP and these Proffers.

#### PERMITTED USES AND INTENSITY/DENSITY

**Existing Proffer 9 amended as to the Block D Subject Property as follows:**

9. Maximum Gross Floor Area ("GFA"). The maximum GFA permitted on the Block D Subject Property is 202,794 square feet, which includes 163,972 square feet of base multifamily residential density, a permitted residential bonus density of 32,794 square feet and up to 6,028 square feet retail/ services uses in one residential mixed use building, as set forth in the tabulations and notes in Table 1 on Sheet C2.1 of the CDPA.

**Reaffirm Existing Proffer 10, which shall remain unchanged.**

**Existing Proffer 11 amended as to the Block D Subject Property as follows:**

11. Residential Dwelling Units in Block D. The Block D Subject Property shall contain a minimum of 100 residential dwelling units (as shown on the CDPA, which shall control without requiring an FDPA notwithstanding that the FDP for Block D shows a range of 104 to 140 units) and a maximum of 140 residential dwelling units. In the event that any of the retail/service uses in Block D are converted to "Live-Work Units" (as set forth in Proffer 14), this maximum shall increase to 150 residential dwelling units.

**Existing Proffer 12 does not relate to the Block D Subject Property.**

**Reaffirm Existing Proffers 13-17 which shall remain unchanged.**

#### ARCHITECTURAL DESIGN

**Reaffirm Existing Proffers 18 – 24, which shall remain unchanged.**

#### GREEN BUILDING AND SUSTAINABLE ENERGY PRACTICES

**Reaffirm Existing Proffer 25, which shall remain unchanged.**

**Existing Proffers 26 and 27 do not relate to the Block D Subject Property.**

**Existing Proffers 28 and 29 amended as to residential use on the Block D Subject Property as follows:**

28. Block D Residential Green Building Practices. As set forth in Proffer 25, all references in these Proffers to USGBC and LEED shall apply equally to such other alternative green building certifying entities selected by the Block D Subject Property owner, including the 2012 National Green Building Standard (NGBS) using the ENERGY STAR path for energy performance. A LEED-AP professional shall be included as a member of the design team for Block D. The LEED-AP shall work with the design team to incorporate design elements under a version of the LEED-NC rating system available at the time of such Applicant's registration into the residential building to be constructed on the Block D Subject Property. At the time of site plan submission, documentation shall be provided to the EDRB demonstrating compliance with the commitment to engage such a professional. In addition, prior to site plan approval for these respective Blocks, the Chief of the EDRB shall be designated as a team member in the USGBC's LEED online system with respect to such building. This team member will have privileges to review the project status and monitor the progress of all LEED-related documents submitted to the Green Building Certification Institute by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

As part of site plan and building plan submission, a list of specific credits within a version of the LEED-NC rating system available at the time of registration (or such other rating system as may be applicable pursuant to Proffer 25), which is anticipated to be attained for such residential building shall be provided. Except as otherwise provided below as an alternative, the LEED-AP, who is a professional engineer or licensed architect, will provide certification statements at the time of site plan review and building plan review, confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED-NC certification for the subject residential building. Certification may be pursued pursuant to this Proffer or the alternative provided below.

Prior to the building plan approval, a "Green Building Escrow," in the form of cash or a letter of credit from a financial institution acceptable to DPWES as defined in the PFM shall be posted in the amount of \$2.00 per square foot of GFA for the building. This Green Building Escrow will be in addition to, and separate from, other bond or escrow requirements and shall be released upon demonstration of attainment of LEED-NC certification, by the USGBC under the project's registered version of the LEED-NC rating system or other LEED rating system determined by the USGBC to be applicable. The provision to the EDRB of documentation from the USGBC that the residential building has attained LEED-NC certification shall be sufficient to satisfy this commitment. At the time LEED-NC certification is demonstrated to the Environmental Review Branch, the escrowed funds shall be released and returned to the Applicant who posted such Green Building Escrow, as applicable.

If prior to bond extension, reduction or final bond release for the building site, whichever occurs first, the Applicant provides to EDRB documentation demonstrating that LEED-NC certification for the building has not been attained but that the building has been determined by the USGBC to fall within three (3) points of attainment of LEED-NC certification, 50% of the green building escrow will be released to the Applicant; the other 50% will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of county environmental initiatives. If the certification is still in progress at the time of application for the bond extension or reduction, the time frame for the provision of the documentation described above shall be automatically extended to the time of the next bond extension or extension. However, the documentation must be provided prior to the final bond release for the building site.

If prior to the bond extension, reduction or final bond release for the building site, whichever occurs first, the Applicant fails to provide documentation to EDRB demonstrating attainment of LEED-

NC certification or demonstrating that the building has fallen short of LEED-NC certification by three (3) points or less, the entirety of the escrow for that building will be released to Fairfax County and will be posted to a fund within the County budget supporting implementation of County environmental initiatives. If the certification is still in progress at the time of application for bond extension or reduction, the time frame for the provision of the documentation described above shall be automatically extended to the time of the next bond extension or reduction. However, the documentation must be provided prior to the final bond release for the building site.

If documentation fails to be provided from the USGBC demonstrating, to the satisfaction of the Environmental Review Branch, that USGBC completion of the review of the LEED-NC certification application has been delayed through no fault of the Applicant, the proffered time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made during the extension.

29. Block D Residential Green Building Alternative. As an alternative to the actions outlined above, a certification level higher than LEED certification may be pursued, in which case a LEED-AP will provide certification statements at the time of site plan and building plan review confirming that the items on the list of specific credits will meet at least the minimum number of credits necessary to attain LEED-NC Silver certification.

Prior to building plan approval for the building to be constructed, documentation shall be submitted to the EDRB regarding the USGBC's preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED-NC Silver certification. Under this alternative, a "Green Building Escrow" shall not be required unless the above referenced documentation that the building is anticipated to attain LEED-NC Silver certification fails to be provided.

**Existing Proffers 30 – 31 do not relate to the Block D Subject Property.**

**Reaffirm Existing Proffer 32, which shall remain unchanged.**

URBAN SITE DESIGN AND LANDSCAPING

**Reaffirm Existing Proffers 33– 37, which shall remain unchanged.**

STREETSCAPES

**Reaffirm Existing Proffers 38 – 49, which shall remain unchanged.**

OFF-SITE PUBLIC FACILITIES AND ATHLETIC FIELDS

**Existing Proffer 50 amended as to the Block D Subject Property to add the following:**

- F. Athletic Field Contribution. Conversion of the Block D Subject Property from hotel to residential use generates an anticipated athletic field requirement of 1/100 of a full-size athletic field for this Application. To meet this anticipated requirement, the Applicant shall contribute \$2.38 per square foot for the net increase in new, additional GFA associated with new residential development on the Block D Subject Property (estimated total contribution of \$79,968.00). This contribution shall be payable prior to issuance of the first RUP for development on the Block D Subject Property, made to the Fairfax

County Park Authority and used solely for the purchase of land and/or construction of athletic field facilities within Tysons.

**Reaffirm Existing Proffers 51 – 52, which shall remain unchanged.**

**Existing Proffer 53 amended as to the Block D Subject Property:**

53. Public Schools Cash Contribution. In addition to the off-site dedication of the Park/School/Athletic Fields Parcel, prior to the issuance of the first RUP for the building in Block D, the amount of \$11,749.00 per student for students projected to be generated by this redevelopment shall be contributed to the Board for transfer to Fairfax County Public Schools ("FCPS") to be utilized for capital improvements and capacity enhancements at the schools that students generated by this residential building will attend. This contribution shall be based on student yield ratios of 0.056, 0.016 and 0.028 per unit for elementary, middle and high school, respectively. Such contribution shall be made at the time of issuance of the first RUP for the residential building.

**Reaffirm Existing Proffer 54, which shall remain unchanged.**

#### ON-SITE PARKS AND ACTIVE RECREATION FACILITIES

**Existing Proffers 55, 56 and 57 amended as to the Block D Subject Property as follows:**

55. Publicly-Accessible Parks by Block. Parks, plazas, terraces, trails and open space shown on the CDP for Blocks A, B, C, E and F and on the CDPA for the Block D Subject Property, while retained in private ownership, shall be subject to public access easements which shall reserve to each Applicant, as applicable, the right, as to its respective Block, to reasonably restrict access for limited times for special events, security, maintenance and repairs and/or safety purposes. Each Applicant may establish reasonable rules and regulations for the public areas on its respective Block provided, however, that such public areas generally are open on a daily basis from dawn until dusk (10:00 p.m. if lighted). At the time of site plan submission for the first building in Block C, the Applicant shall enter into discussions with FCPA regarding opportunities for public programming within the large Urban Park within Block C. Any such agreement between the Applicant and FCPA shall be memorialized in a "Memorandum of Understanding." Special amenity features generally described below shall be depicted on the FDP for Block C, and shall be designed to enhance and complement land uses and may include both hardscape and softscape elements generally as depicted on the CDP. Parks and other publicly-accessible recreation areas shall be provided on each respective Block as generally shown on the Phasing Sheets and Urban Parks Plan on the CDP and CDPA for Block D Subject Property at the time of issuance of the first RUP or Non-RUP for new construction on that Block and as further described below, with more specific details provided on the FDP for each Block:

(Paragraphs A, B, C and D do not relate to the Block D Subject Property.)

E. Block D. As shown conceptually on the CDPA, one publicly-accessible "Pocket Park" ("A" type) that is approximately 16,500 square feet in size shall be provided prior to issuance of the first RUP or Non-RUP for the Block D Subject Property. This pocket park shall be designed to create an intimate passive park that includes seating, special plantings, lawn space and special paving activating the space and linking it to the adjacent residential building.

56. Urban Parks Tabulations. The publicly-accessible open space tabulations set forth on the CDP for Blocks A, B, C, E and F, and on the CDPA for the Block D Subject Property, shall be achieved

when redevelopment of the entirety of the Arbor Row development is complete, in accordance with Par. 2 of Sect. 16-403 of the Zoning Ordinance.

57. Private Active Recreation Facilities. Pursuant to Par. 2 of Sect. 6-508 and of Sect. 16-404 of the Zoning Ordinance, at the time of site plan approval, a minimum of \$1,800.00 per market-rate and workforce residential dwelling unit shall be provided for each residential building within Block A, Block D and Block E toward construction of developed on-site recreation facilities (privately and publicly-accessible) for each respective building. The balance of any funds not expended for the applicable residential building, if any as determined by DPWES, shall be contributed or may be escrowed, prior to issuance of the RUP for the final unit in such building, for provision of future on-site recreation facilities (private and publicly accessible) within Block C, and, if no such facilities are identified, then such residual funds shall be contributed to the FCPA for the provision of recreation facilities within Tysons Corner. The specific facilities and amenities noted below (which are separate from and in addition to the required provision of publicly accessible park space) shall be provided within each residential Block and may be shared between two or more residential buildings for the use and enjoyment of the residents of those buildings, as determined at the time of FDP approval. Private recreation facilities shall include, but not be limited to:

- A. Private exterior courtyard areas, which may be located on the top deck of the parking garages and/or residential buildings or in open areas and may include pool facilities, informal seating areas, landscaping, hardscape areas and/or passive recreation areas; and
- B. An interior fitness center furnished with exercise equipment that may include, but is not limited to, stationary bikes, treadmills, weight machines and free weights, but not necessarily staffed.

#### PEDESTRIAN CIRCULATION

**Reaffirm Existing Proffer 58, which shall remain unchanged.**

#### TRANSPORTATION

**Reaffirm Existing Proffers 59 – 78, which shall remain unchanged.**

#### TRANSPORTATION DEMAND MANAGEMENT ("TDM")

**Existing Proffer 79 amended as to the Block D Subject Property to delete references to "hotel" use as follows:**

79. Transportation Demand Management for Retail Uses. As provided in the above Proffer, certain components of the TDM Plan are applicable to and will benefit the proposed Retail Uses on the Block D Subject Property. Therefore, the Applicant will provide an additional TDM program tailored to specifically serve the Retail Uses (the "Retail TDM Program"). In no event will penalties be assessed against any Retail Uses, which may be established on the Subject Property.

- A. Goals of the Retail TDM Program. Because tenants of the retail stores and their employees work hours that are atypical of the standard work day, these tenants and their employees do not necessarily travel to and from the Block D Subject Property during peak hours. Given this, the Retail TDM Program shall encourage retail tenants guests and the retail employees to utilize transit, carpools, walking, biking and other non-Single Occupancy Vehicle ("non-SOV") modes of transportation to travel to and from the

Subject Property rather than focusing on the specific trip reductions during the weekday AM or PM peak hours.

- B. Components of the Retail TDM Program. The Retail TDM Program shall include, at a minimum, the components applicable to the Block D Subject Property that are described in this Proffer and the additional components provided below. These additional components may be subsequently amended by mutual agreement between the Applicant and FCDOT. All amendments to the components of the Retail TDM Program contained in this Proffer shall be approved by FCDOT and will not require a PCA. The Retail TDM Program components are further described in the TDM Plan.
- C. Employee/Tenant Meetings. The TPM shall hold, at a minimum, an annual TDM meeting with the Retail store tenants and Managers, and their respective employees, to review the available transit options, changes in transit service and other relevant transit-related topics. Based on these meetings, the TPM shall work with Fairfax County to consider changes to the relevant services, such as changes to bus schedules, if such changes would provide better service to the Block D Subject Property tenants and their employees.
- D. Regional TDM Programs. The TPM shall make information available to retail store tenants and the retail employees about regional TDM programs that promote alternative commuting options. This shall include information on vanpools, carpools, guaranteed ride home and other programs offered by organizations in the Washington, D.C. Metropolitan Area.
- E. Retail TDM Program Participation Outreach. The TPM shall endeavor in good faith to encourage participation by Retail store tenants in the Retail TDM Program, including the encouragement of a financial participation by such tenants through their direct offering of transit benefit programs and transit incentives to their employees. Actions taken by the TPM and property management in furtherance of this objective may include dissemination of information to, and solicitation of participation from, the tenant's in-store management and executives or officers at their headquarters offices, at appropriate intervals. The TPM shall include a report to the County with respect to the activities described in the TDM Proffer as part of the Annual Report to be filed with the County. This report shall include detailed accounts of the outreach efforts and the feedback and response from the tenants.

**Reaffirm Existing Proffers 80 and 81, which shall remain unchanged.**

#### BICYCLE FACILITIES

**Reaffirm Existing Proffers 82 and 83, which shall remain unchanged.**

#### PARKING

**Existing Proffer 84 amended as to the Block D Subject Property as follows:**

84. Parking Requirements. Parking on the Block D Subject Property shall be provided in accordance with the parking requirements for the PTC District set forth in Sect. 6-509 and Article 11 of the Zoning Ordinance, and as shown on the CDPA for Block D. Tandem and valet parking shall be permitted and, subject to Board approval, shall count toward parking requirements. Tandem parking

spaces may be used for residential units with two cars and in office buildings where spaces are assigned by building management. The exact number of parking spaces to be provided for the Block D Subject Property shall be refined with approval of the FDP and determined at the time of site plan approval, provided that the parking actually constructed on the Block D Subject Property shall not reduce the maximum number of parking spaces shown in the tabulations on the CDP and CDPA for the other Blocks. If changes in the mix of uses or unit types result in parking greater than that anticipated on the CDPA, the additional parking spaces shall be accommodated within the proposed parking garages, so long as the maximum height and footprints of the parking garages do not increase from that shown on the CDPA. Parking at revised ratios may be provided, as may be permitted by a future amendment to the Zoning Ordinance. Optional use of revised ratios shall not require a PCA, CDPA or FDPA, provided there is no increase in the size or height of above-grade parking garages beyond minor adjustments to what is shown on the CDPA.

**Reaffirm Existing Proffers 85 – 91, which shall remain unchanged.**

#### WORKFORCE HOUSING

**Existing Proffer 91 does not relate to the Block D Subject Property.**

**Existing Proffer 92 amended as to the Block D Subject Property for high-rise WDUs as follows:**

92.1 Rental Workforce Dwelling Units. If Block D is developed and marketed as a rental building, rental housing units on Block D shall be provided within the residential building in accordance with the Board's Tysons Corner Urban Center Workforce Dwelling Unit Administrative Policy Guidelines dated June 22, 2010 (the "**Adopted WDU Guidelines**"). Rental Workforce Dwelling Units ("**Rental WDUs**") shall be provided such that the total number of Rental WDUs results in (20) percent of the total residential units constructed on Block D. The 20 percent applies to the total number of dwelling units to be constructed on the subject site, respectively; however, any units created with workforce housing bonus floor area shall be excluded from the 20 percent WDU calculation.

- A. The Rental WDUs generated by the residential building shall be provided within such building. Additionally, in the event that parking spaces are made available for lease to individual market rate dwelling units, at least one (1) parking space shall be made available for lease with each Rental WDU in Block D.
- B. Notwithstanding the foregoing, should the Board's policies related to WDUs in Tysons Corner be amended, the Applicant reserves the right, in its sole discretion as to its respective Block, to opt into the new policies, in part or in whole, without the need for a PCA or CDPA and, if an Applicant so opts into any such new policies, the provisions of this Proffer which relate to the new policies of the Board which the Applicant has elected to opt into shall no longer be effective. Furthermore, the Applicant reserves the right as to its respective Block to enter into a separate binding written agreement with the appropriate County agency as to the terms and conditions of the administration of the Rental WDUs. Such an agreement shall be on terms mutually acceptable to the Applicant and the County and may occur any time after the approval of this Application. Neither the Board nor the County shall be obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the Rental WDUs shall be administered solely in accordance with such agreement and the provisions of this Proffer as it applies to Rental WDUs shall become null and void. Such an agreement and any modifications thereto, or an appropriate memorandum thereof, shall be recorded in the land records of the County.

92.2 For-Sale Workforce Dwelling Units. If Block D is developed and marketed as a for-sale building, Workforce Dwelling Units ("WDUs") shall be provided as follows:

- A. The Applicant shall diligently pursue and provide 20 percent of the total residential units constructed on Block D as WDUs; however, any units created with workforce housing bonus floor area shall be excluded from the 20 percent calculation. Such 20 percent of total residential units are referred to in this Proffer as the "**Proffered 20 Percent**."
- B. The Proffered 20 Percent may be provided in the building on Block D (the "**On-site WDUs**") and/or in one or more locations within the Tysons Corner Urban Center as defined by the Fairfax County Comprehensive Plan (the "**Off-site WDUs**"). All WDUs required to meet the Proffered 20 Percent may be provided as Off-site WDUs within the Applicant's sole discretion subject to the provisions herein. As described herein, the Applicant shall provide no less than 65 percent of the Proffered 20 Percent as On-site WDUs, Off-site WDUs or a combination of the two.
- C. The Off-site WDUs shall not all be located in a single building that contains only WDUs and/or ADUs. In the Applicant's discretion, Off-site WDUs may be offered for sale or for rent to qualified individuals and/or Fairfax County in accordance with the Adopted WDU Guidelines.
- D. On-site and/or Off-site WDUs shall be provided in accordance with the following provisions:
  - i. With respect to Block D only, WDUs shall be provided as follows: one-third (1/3) of the WDUs will be provided at the 70 percent AMI income tier, one-third (1/3) of the WDUs shall be provided at the 80 percent AMI income tier, and one-third (1/3) of the WDUs shall be provided at the 100 percent AMI income tier. The 120 percent and 60 percent AMI income tiers of the Adopted WDU Guidelines shall not be required. The number of WDUs shall be equally distributed among the three income tiers to the extent possible based on the number of WDUs with the Applicant determining the final allocation. For example, if a total of thirteen (13) WDUs are provided, the distribution may be four (4) units provided at the 70 percent AMI income tier, five (5) units provided at the 80 percent AMI income tier, and four (4) units provided at the 100 percent AMI income tier.
  - ii. Strict bedroom proportionality between any On-site WDUs and market units shall not be required. The Applicant may select the WDU type and size as long as the On-site WDUs, and rental Off-site WDUs (existing, under construction or to-be-constructed) are comprised of up to 50 percent efficiencies, approximately 40 percent one-bedroom units, and a minimum of 10 percent two-bedroom or one-bedroom/den units and meet or exceed the minimum size for the unit type as permitted by the Adopted WDU Guidelines. Off-site WDUs, if provided as existing residential units purchased in the market place and offered for sale to qualified purchasers, shall be one bedroom or larger. Said Off-site WDUs shall meet or exceed the minimum size for the unit type as permitted by the Adopted WDU Guidelines.
  - iii. If provided, the location of the On-site WDUs shall be selected by the Applicant within its sole discretion but shall be distributed over several floors.

- iv. The pricing of the On-site and Off-site WDUs shall be consistent with Unit Pricing for High Rise Condominium Buildings dated January 16, 2015 established by the County Executive, as may be increased in accordance with semi-annual updating by the Department of Housing and Community Development (HCD) as approved by the County Executive. Should the unit pricing decrease to accommodate interest rates or similar financial circumstances, the income tiers stated herein shall be adjusted to maintain pricing consistent with the pricing dated January 16, 2015. The pricing of any Off-site WDUs, if located in a building or buildings that are not high-rise construction, shall be based on the Unit Pricing for High Rise Condominium Buildings dated January 16, 2015 or mid-rise pricing as approved by the County Executive but in no event shall the pricing be less than 95 percent of the pricing for High Rise Condominium Buildings. If Off-site WDUs are offered as rental units to qualified individuals, the maximum rents shall be consistent with those published in January 2014 under the Workforce Rental Dwelling Unit Program administered by HCD, as may be increased by HCD. Should the maximum rent decrease to accommodate interest rates or similar financial circumstances, the income tiers stated herein shall be adjusted to maintain maximum rents consistent with those dated January 2014.
- v. Subject to the other provisions of this Proffer, the issuance of RUPs for the market residential dwelling units shall not be restricted based on the issuance of RUPs for the On-site WDUs, if provided, or the Off-site WDUs.
- vi. Beginning no later than commencement of construction until six (6) months after the issuance of the first RUP for an On-site WDU, the Applicant, jointly with HCD, shall market the On-Site WDUs, if any, to qualified purchasers at the income tiers specified above. The marketing of such On-site WDUs shall be in accordance with the marketing plan attached to these Proffers as **Exhibit B**.
- vii. After the marketing period described in paragraph D.vi. above, any unsold On-site WDUs, may be marketed and conveyed by the Applicant at current comparable market prices to the public for a similarly sized and finished unit. Prior to the issuance of a RUP for any unsold On-site WDU that is sold by the Applicant at current comparable market prices pursuant to this Proffer, the Applicant shall contribute to the Fairfax County Housing Trust Fund the difference between the On-site WDU pricing and the market sales price less the Applicant's costs associated with continued ownership and sale from the expiration of the marketing period described in paragraph D.vi. above. Costs shall be calculated based on the actual base sales price of the market rate residential unit net of outside brokerage fees not to exceed 3 percent pro-rated taxes, interest, condominium fees and utilities, and all covenants and restrictions shall be released also as described in paragraph D.viii. below. Such contribution shall be calculated based on the actual sales price but in no event shall the sales price used for the calculation be less than 70 percent of the appraised market value of the on-site WDU as demonstrated to HCD.
- viii. Prior to the marketing of any unsold On-site WDUs, the Applicant, with the joinder of HCD, shall release all On-site WDU covenants and restrictions, including site plan restrictions, as recorded against the unit or units that are released. All unsold On-site WDUs released from WDU covenants in such manner shall nevertheless count toward the Proffered 20 Percent.

- ix. In accordance with the Adopted Tysons Corner WDU Guidelines, HCD will monitor the sale of the for-sale WDUs. HCD will ensure that the for-sale WDUs are offered to individuals or households who meet the income and eligibility criteria established by HCD, and who have been issued a Certificate of Qualification by HCD. Prior to the execution of a residential sales contract by the purchaser, the Applicant will submit required documentation provided by purchaser to HCD and request the issuance of a Certificate of Qualification to the purchaser.
  - x. In the event that parking spaces are made available for sale or lease to individual market rate dwelling units on Block D, at least one (1) parking space shall be made available for sale or lease with each of the On-site WDUs.
- E. Prior to site plan approval for Block D, the Applicant shall identify the WDUs being provided, and the income tier in which the WDU will be offered consistent with paragraph D.i. above, as follows:
- i. The Applicant shall depict on the site plan, or any subsequent site plan revision, the number of On-site WDUs that will be provided in the building on Block D, if any. Said On-site WDUs shall be subject to the recordation of a WDU Covenant in a form substantially the same as those WDU Covenants recorded for existing multi-family buildings in Tysons as timely approved by HCD in its reasonable discretion (referred to herein as the "**WDU Covenant**").
  - ii. The Applicant shall provide evidence of the Off-site WDUs, if provided, and the income tier in which the WDU will be offered consistent with paragraph D.i. above, in accordance with the following:
    - a. If the Off-site WDU is an existing market rate dwelling unit that is being converted to a WDU, the Applicant shall provide a home inspection report confirming that the unit is in good and marketable condition, a copy of a recorded WDU Covenant and a Notice of Availability and Offering Agreement, which will be submitted to HCD for review and timely approval in its reasonable discretion. Said Notice of Availability and Offering Agreement shall identify the income tier in which the WDU shall be offered consistent with paragraph D.i. above. In addition, if the dwelling unit is located in a condominium, the Applicant shall provide a report that evaluates capital reserves and concludes that adequate reserves are available for foreseeable capital improvements.
    - b. If the Off-site WDU is located on a property already zoned to permit said unit and the unit is under construction, the Applicant shall submit written documentation to the Director, Zoning Evaluation Division (the "**Director**") that demonstrates the number of Off-site WDUs the Applicant has been able to secure, which will include, without limitation, a written contract signed by and binding upon all necessary parties that requires the provision of the Off-site WDUs, within two years of site plan approval, and a copy of a recorded WDU Covenant. The written documentation shall identify the income tier in which the WDU shall be offered consistent with paragraph D.i. above. The provision of such Off-site WDUs will not count toward the off-site development's commitment to provide WDUs.

- c. If the Off-site WDU is located on property already zoned to permit said unit and the unit is not under construction, the Applicant shall provide written documentation to the Director that demonstrates the number of Off-site WDU's the Applicant has been able to secure, which will include, without limitation, a written contract signed by and binding upon all necessary parties that requires the provision of the Off-site WDU's within three (3) years of Applicant's site plan approval. The written documentation shall identify the income tier in which the WDU shall be offered consistent with paragraph D.i. above. For each of these Off-site WDU's, the Applicant shall take all reasonable actions to ensure that the off-site owner diligently pursues commencement of construction and records a WDU Covenant upon such commencement. The provision of such Off-site WDU's will not count toward the off-site development's commitment to provide WDU's.
  - d. Additionally, the Applicant shall post with Fairfax County a separate proffer performance bond or letter of credit in a form reasonably acceptable to Fairfax County in the amount of \$85,000.00 per unit described in paragraph E.ii.c., but no less than \$510,000.00, that will be held until a WDU Covenant has been recorded and a RUP has been issued for all such Off-site WDU's at which time the bond or letter of credit held by Fairfax County shall be released to the party that posted it. If a bond is posted in excess of \$510,000.00, the bond may be reduced by \$85,000.00 per Off-site WDU when a WDU covenant has been recorded and a RUP issued for said unit, so long as the bond is not reduced to less than \$510,000.00. The Applicant's obligation to provide these Off-site WDU's shall continue, and the bond or letter of credit in a minimum amount of \$510,000.00 shall be maintained, until the Applicant has provided all of the Off-site WDU's necessary to meet the 65 percent requirement. The provision of such Off-site WDU's will not count toward the off-site development's commitment to provide WDU's
  - iii. The combined number of On-site WDU's and/or Off-site WDU's shall equal no less than 65 percent of the WDU's required to meet the Proffered 20 Percent. If such documentation as described in the paragraphs above demonstrates that the Applicant has provided all of the WDU's required to meet the Proffered 20 Percent through a combination of On-site WDU's and Off-site WDU's, the Applicant shall be deemed to have provided all of the WDU's required to be provided under this Proffer 92.2.
- F. If the number of On-site and/or Off-site WDU's meets the minimum of 65 percent, but is less than the Proffered 20 Percent at site plan approval, the Applicant shall continue to diligently pursue additional Off-site WDU's. Prior to issuance of the first RUP for the building on Block D, the Applicant shall provide the following:
- i. An inventory of all On-site and Off-site WDU's that have been provided, and those that are the subject of a contract between the Applicant and an off-site owner, together with all documentation necessary to allow DPWES to verify the status of each and every such unit identified. If the Off-site WDU is an existing market rate dwelling unit that is being converted to a WDU, the Applicant shall provide a home inspection report confirming that the unit is in good and marketable condition, a copy of a recorded WDU Covenant and a Notice of

Availability and Offering Agreement that will be submitted to HCD for review and timely approval in its reasonable discretion. Said Notice of Availability and Offering Agreement shall identify the income tier in which the WDU shall be offered consistent with 92.2.D.i. In addition, if the dwelling unit is located in a condominium, the Applicant shall provide a report that evaluates capital reserves and concludes that adequate reserves are available for foreseeable capital improvements.

- ii. If the Off-site WDU is located on a property already zoned to permit said unit and the unit is under construction, the Applicant shall submit written documentation to the Director that demonstrates the number of Off-site WDUs the Applicant has been able to secure, which will include, without limitation, a written contract signed by and binding upon all necessary parties that requires the provision of Off-site WDUs within two (2) years of issuance of the first RUP, and a copy of a recorded WDU Covenant. The written documentation shall identify the income tier in which the WDU shall be offered consistent with paragraph D.i. above.
- iii. If the Off-site WDU is located on property already zoned to permit said unit and the unit is not under construction, the Applicant shall submit written documentation to the Director that demonstrates the number of Off-site WDUs the Applicant has been able to secure which will include, without limitation, a written contract signed by and binding upon all necessary parties that requires the provision of the Off-site WDUs within three (3) years of the issuance of the first RUP. The written documentation shall identify the income tier in which the WDU shall be offered consistent with paragraph D.i. above. For each of these Off-site WDUs, the Applicant will take all reasonable steps to ensure that the off-site property owner diligently pursues commencement of construction and records a WDU Covenant upon such commencement. The provision of such Off-site WDUs shall not count toward the off-site development's commitment to provide WDUs
- iv. Additionally, the Applicant shall post with Fairfax County a separate proffer performance bond or letter of credit, in a form reasonably acceptable to Fairfax County in the amount of \$85,000.00 per Off-site WDU described in paragraph F.iii. that will be held until a WDU Covenant has been recorded and a RUP has been issued for all of the said Off-site WDUs. As to any and all Off-site WDUs that are not fully constructed with RUPs issued within three (3) years of the issuance of the first RUP for Block D, or such longer period as agreed to by Fairfax County, said bond or letter of credit shall be released to Fairfax County, in whole or in part, to the extent necessary to cover payment for those Off-site WDUs that have not been completed and for which no payment has been made under paragraphs G.i. and G.ii., below, and will be used by the County for the provision of affordable housing in Tysons.
- v. If such documentation described above, together with the On-site and/or Off-site WDUs and the documentation provided prior to site plan approval as described in paragraph E., demonstrate that the Applicant has provided all of the WDUs required to meet the Proffered 20 Percent, the Applicant shall be deemed to have provided all of the WDUs required to be provided under this Proffer 92.2.

- G. If, at the time of issuance of the first RUP for Block D, the Applicant has provided 65 percent, but has not provided all of the WDUs required to meet the Proffered 20 Percent through a combination of On-site WDUs and Off-site WDUs, the Applicant shall make a payment as follows.
- i. If at least 65 percent but less than 80 percent of the Proffered 20 Percent is provided as On-site and/or Off-site WDUs, a payment of \$85,000.00 for the remaining 35 percent for each WDU not provided shall be paid into the Tysons Affordable Housing Trust Fund. Upon making such payment, the Applicant shall be deemed to have provided all of the WDUs required to be provided under this Proffer 92.2.
  - ii. If at least 80 percent of the Proffered 20 Percent is provided as On-site and/or Off-site WDUs, a payment of \$75,000.00 for each WDU not provided shall be paid into the Tysons Affordable Housing Trust Fund. Upon making such payment, the Applicant shall be deemed to have provided all of the WDUs required to be provided under this Proffer 92.2.
- H. Notwithstanding the foregoing, should the Board's policies related to WDUs in Tysons Corner be amended, the Applicant reserves the right, in its sole discretion as to its respective Block, to opt into the new policies, in part or in whole, without the need for a PCA or CDPA and, if the Applicant so opts into any such new policies, the provisions of this Proffer which relate to the new policies of the Board which the Applicant has elected to opt into shall no longer be effective. Furthermore, the Applicant reserves the right as to its respective Block to enter into a separate binding written agreement with the appropriate County agency as to the terms and conditions of the administration of the On-site WDUs. Such an agreement shall be on terms mutually acceptable to the Applicant and the County and may occur any time after the approval of this Application. Neither the Board nor the County shall be obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the On-site WDUs shall be administered solely in accordance with such agreement and the provisions of this Proffer as it applies to On-site WDUs shall become null and void. Such an agreement and any modifications thereto, or an appropriate memorandum thereof, shall be recorded in the land records of the County, a copy of which shall be submitted to the Director to be entered into the County's records for this application.
- I. Notwithstanding the time periods described above, upon demonstration by the Applicant that, despite its diligent efforts or factors beyond the Applicant's control, proffered time periods for the provision of Off-site WDUs have been delayed (due to, but not limited to, construction schedules, availability of financing, weather delays, duration of approval process, or market conditions) beyond the time periods specified, the Director may agree to a later date for the provision of Off-site WDUs as described herein. Such agreement shall not be unreasonably withheld.

**Existing Proffer 93 amended as to the Block D Subject Property to delete references to "hotel" use as follows:**

93. Office Contributions toward Affordable/Workforce Housing in Tysons Corner. One of the following two options may be chosen by the Applicant for non-residential uses' contributions toward the provision of affordable and/or workforce housing within Tysons Corner. This contribution shall be made to the Board, be deposited in a specific fund to be used solely for this purpose within Tysons Corner and shall be payable prior to the issuance of the initial Non-RUP for each new non-residential building on

each respective Block, excluding retail/services uses and public uses. The contributions shall consist of either (i) a one-time contribution of \$3.00 for each square foot of office GFA, excluding retail/services uses and public uses, or (ii) an annual contribution of \$0.25 for each square foot of non-residential GFA, excluding retail/services uses and public uses and continuing for a total of sixteen (16) years.

STORMWATER MANAGEMENT

**Reaffirm Existing Proffer 94, which shall remain unchanged.**

INTERIOR NOISE ATTENUATION FOR RESIDENTIAL AND HOTEL USES

**Reaffirm Proffer 95, which shall remain unchanged.**

EQC, RPA AND TREE PRESERVATION WITHIN SUB-BLOCK A-1

**Existing Proffers 96-105 do not relate to the Block D Subject Property.**

MISCELLANEOUS

**Reaffirm Existing Proffers 106 – 109, which shall remain unchanged.**

**Existing Proffer 110 amended as to the Block D Subject Property as follows:**

110. Metrorail Tax District Buyout for Certain Residential Uses. At least sixty (60) days prior to recording any condominium documents that would change the use of the buildings on the Block D Subject Property from a multi-unit residential real property that is primarily leased or rented to residential tenants or other occupants by an owner who is engaged in such a business, which is taxable for purposes of the now existing Phase I Dulles Rail Transportation Improvement District (the "Phase I District"), to a use that is not subject to the Phase I District tax, the Applicant shall provide a written notice to the Director of the Real Estate Division of the Fairfax County Department of Tax Administration advising that the Applicant intends to record such condominium documents for the Block D Subject Property. Prior to recording such condominium documents, the Applicant shall pay to the County a sum equal to the then-present value of Phase I District taxes, based on the use of the Block D Subject Property prior to becoming subject to the condominium, that will be lost as a result of recording such condominium documents and in accordance with a formula approved by the Board.

**Reaffirm Existing Proffers 111-114, which shall remain unchanged.**

**Additional, new proffers for the Block D Subject Property:**

115. Emergency Vehicle Preemption (EVP) Devices. Prior to issuance of the final RUP for the building on the Block D Subject Property, the Applicant shall contribute \$20,000.00 to the Capital Project titled Traffic Light Preemptive Devices – FRD Proffers in Fund 300-C30070, Public Safety Construction for use in the installation of preemptive signal devices on traffic signals along the primary travel route to the closest fire station. The Applicant shall have no responsibility for installation or maintenance of the preemptive signal devices.

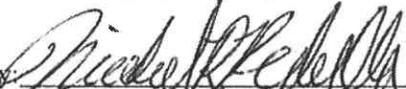
**APPLICANT:**

CITYLINE PARTNERS LLC  
*Applicant and Agent for Title Owners*

By:   
Name: Michael R. Pedulla  
Title: Co. President

**OWNER:**

GRAYSON 7913 WESTPARK LLC  
*Title Owner of a portion of Parcel 29-4-((7))-2A*

By:   
Name: Michael R. Pedulla  
Title: Executive Vice President

**OWNER:**

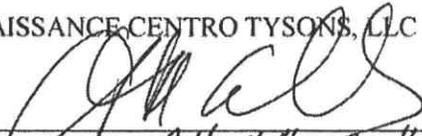
CAMPBELL-SCOTT WESTPARK LLC  
*Title Owner of a portion of Parcel 29-4-((7))-2A*

By:   
Name: Michael R. Pedulla  
Title: Executive Vice President

[SIGNATURES CONTINUE]

**CONTRACT PURCHASER:**

RENAISSANCE-CENTRO TYSONS, LLC

By:   
Name: Albert H. Small Jr.  
Title: Managing Member

[SIGNATURES END]

*RZ 2011-PR-023*

*ARBOR ROW*

*PROFFER STATEMENT*

*September 14, 2011*

*February 24, 2012*

*May 25, 2012*

*July 23, 2012*

*August 31, 2012*

*September 10, 2012*

*October 10, 2012*

*October 16, 2012*

*October 26, 2012*



**TABLE OF CONTENTS**

	Page
<b>GENERAL</b> .....	1
1. Substantial Conformance.....	1
2. Redevelopment of Blocks A through F.....	2
3. Proffered CDP Elements.....	2
4. Minor Modifications to the CDP.....	2
5. Severability and Future PCA/CDPA/FDP/FDPA/SE/SP Applications.....	2
6. Final Development Plans.....	3
7. Final Development Plan Information.....	3
8. Fire Marshal.....	5
<b>PERMITTED USES AND INTENSITY/DENSITY</b> .....	5
9. Maximum Gross Floor Area ("GFA").....	5
10. Adjustments to GFA in Blocks B, C and D.....	5
11. Residential Dwelling Units in Blocks A and E.....	6
12. Adjustments to GFA within Block A.....	6
13. Uses.....	6
14. Live-Work Units.....	6
15. SE/SP Uses.....	7
16. Intensity/Density Reservation.....	7
17. Existing and Interim Structures and Uses.....	7
<b>ARCHITECTURAL DESIGN</b> .....	8
18. Proffered Architectural Quality and Elements.....	8
19. Build-To Lines.....	8
20. Activated Streetscape.....	8
A. Primary Pedestrian Corridors.....	8
B. Secondary Pedestrian Corridors.....	9
C. Tertiary Pedestrian Corridors.....	10
21. Parking Structure Façade Treatments.....	11
22. Minimum and Maximum Building Heights.....	12
23. Rooftop Telecommunications Equipment and Mechanical Units.....	12
24. Trellises and Arbors.....	12
<b>GREEN BUILDING AND SUSTAINABLE ENERGY PRACTICES</b> .....	13
25. LEED Equivalents and Conflicts.....	13
26. Block F Office Green Building Practices.....	13
27. Block F Alternative Green Building Escrow.....	14
28. Blocks B, C and D Green Building Practices.....	15
29. Blocks B, C and D Alternative Green Building Escrow.....	16
30. Blocks A and E Residential Green Building Practices.....	16
31. Blocks A and E Residential Green Building Alternative.....	18

32. Additional Sustainable Energy Practices .....	18
A. Electric Vehicle Charging Infrastructure .....	18
B. Shared Energy .....	18
C. Energy and Water Data .....	19
<b>URBAN SITE DESIGN AND LANDSCAPING .....</b>	<b>19</b>
33. Site Design .....	19
34. Landscaping .....	19
35. Detailed Landscape Plans .....	19
36. Alternative Planting Width Details .....	20
37. Publicly-Accessible Park and Open Space Areas .....	20
<b>STREETSCAPES .....</b>	<b>21</b>
38. Streetscape Elements .....	21
39. Non-Invasive Plant Materials .....	21
40. Utility Locations .....	21
41. Sight Distance and Utility Considerations .....	22
42. Streetscape Furnishings and Materials and Lighting .....	22
43. Parking Structure Lighting .....	22
44. Construction Lighting .....	22
45. Signage and Wayfinding .....	22
46. Maintenance of the Pedestrian Realm .....	23
47. Ownership of the Pedestrian Realm .....	24
48. Public Access for the Pedestrian Realm .....	24
49. Phased Conditions and Standards .....	24
<b>OFF-SITE PUBLIC FACILITIES AND ATHLETIC FIELDS .....</b>	<b>25</b>
50. Public Facilities and Athletic Fields Contributions .....	25
A. Dedication of Off-Site Parcel .....	25
B. Athletic Fields .....	25
C. Construction of Stream Valley Trail .....	27
D. Outfall and Stream Bank Restoration .....	27
E. Contribution to Costs of Potential Future Park/School/Athletic Fields Parcel Improvements .....	29
51. Construction of the Athletic Fields and Related Facilities .....	29
52. Contingencies for Early Removal of Field Two .....	30
53. Public Schools Cash Contribution .....	30
54. Adjustments to Schools Cash Contribution .....	31
<b>ON-SITE PARKS AND ACTIVE RECREATION FACILITIES .....</b>	<b>31</b>
55. Publicly-Accessible Parks by Block .....	31
A. Block A .....	31
B. Block C .....	32
C. Block E .....	32

D. Block F.....	33
56. Urban Parks Tabulations.....	33
57. Private Active Recreation Facilities.....	33
<b>PEDESTRIAN CIRCULATION.....</b>	<b>34</b>
58. Pedestrian Connectivity .....	34
<b>TRANSPORTATION.....</b>	<b>34</b>
59. Definition of Construct .....	34
60. VDOT Acceptance and Dedication .....	34
61. Grid of Streets .....	35
62. On-Site Road Improvements.....	35
A. Westpark Drive Frontage Improvements.....	35
B. Westbranch Drive Frontage Improvements .....	36
C. Jones Branch Drive Extended.....	37
D. Private Streets and Access Roads .....	37
63. Off-Site Transportation Improvements.....	37
64. VDOT Approval .....	37
65. Westpark Drive/Westbranch Drive Traffic Signal .....	37
66. Jones Branch Drive/Westbranch Drive Traffic Signal .....	38
67. Traffic Signal Modifications.....	38
68. Potential Future Right-Of-Way Vacation Areas.....	39
69. Pedestrian Enhancements.....	39
70. Supplemental Traffic Analyses.....	39
71. Notification Letter.....	39
72. Tysons Road Fund Contributions .....	39
73. Board-Initiated Service District for Table 7 Improvements .....	39
74. Additional Tysons Road Fund Contributions for Table 7 Improvements .....	39
75. Congestion Management Plan .....	40
<b>TRANSPORTATION DEMAND MANAGEMENT ("TDM").....</b>	<b>40</b>
76. Tysons Transportation Management Association.....	40
77. TDM Administrative Group .....	41
78. Transportation Demand Management Plan .....	41
A. Definitions.....	41
B. Trip Reduction Objective.....	42
C. TDM Program Components – Arbor Row-Wide.....	43
D. TDM Program Components – Residential.....	43
E. TDM Program Components – Office .....	43
F. Process of Implementation.....	44
G. Remedies and Penalties.....	48
H. Additional Trip Counts .....	52
I. Review of Trip Reduction Goals .....	52

J. Continuing Implementation .....	52
K. Notice to Owners .....	52
L. Enforcement .....	52
79. Transportation Demand Management for Retail/Hotel Uses .....	53
A. Goals of the Retail/Hotel TDM Program .....	53
B. Components of the Retail/Hotel TDM Program .....	53
C. Employee/Tenant Meetings .....	53
D. Regional TDM Programs .....	53
E. Retail/Hotel TDM Program Participation Outreach .....	54
80. Existing or Interim Arbor Row Office Uses .....	54
81. Intelligent Transportation Systems .....	54
<b>BICYCLE FACILITIES .....</b>	<b>55</b>
82. Bicycle Parking and Storage .....	55
83. Bicycle Lanes .....	55
<b>PARKING .....</b>	<b>55</b>
84. Parking Requirements .....	55
85. On-Street Parking Spaces on Private Streets .....	56
86. On-Street Parking Spaces on Public Streets .....	56
87. Parking Restrictions .....	56
88. Temporary Trees on Interim Surface Parking Lots .....	56
89. Unbundled Parking for Residential Uses .....	57
90. Paid Parking for Non-Residential Uses .....	57
<b>AFFORDABLE/WORKFORCE HOUSING .....</b>	<b>57</b>
91. Affordable Dwelling Units .....	57
92. Workforce Dwelling Units .....	57
93. Office and Hotel Contributions toward Affordable/Workforce Housing in Tysons Corner .....	58
<b>STORMWATER MANAGEMENT .....</b>	<b>58</b>
94. Stormwater Management .....	58
<b>INTERIOR NOISE ATTENUATION FOR RESIDENTIAL AND HOTEL USES .....</b>	<b>60</b>
95. Residential and Hotel Interior Noise Level .....	60
<b>EQC, RPA AND TREE PRESERVATION WITHIN SUB-BLOCK A-1 .....</b>	<b>60</b>
96. Environmental Quality Corridor ("EQC") Boundary .....	60
97. Resource Protection Area ("RPA") Boundary .....	60
98. Tree Preservation .....	60
99. Tree Preservation Walk-Through .....	61
100. Limits of Clearing and Grading .....	61
101. Tree Protection Fencing .....	61

102. Root Pruning .....	62
103. Tree Appraisal .....	62
104. Demolition of Existing Structures .....	63
105. Site Monitoring .....	63
<b>MISCELLANEOUS .....</b>	<b>63</b>
106. Bird-Friendly Design .....	63
107. Tree Preservation and Planting Fund Contribution .....	64
108. Delay .....	64
109. Tysons Partnership.....	64
110. Metrorail Tax District Buyout for Certain Residential Uses .....	64
111. Escalation in Contribution Amounts.....	64
112. Condemnation .....	65
113. Successors and Assigns.....	65
114. Counterparts.....	65

**EXHIBITS**

- Exhibit A:   Playing Fields and Public Facilities Exhibit  
Exhibit B:   Cover Sheet and Table of Contents of TDM Plan, dated August 31, 2012

**ARBOR ROW  
RZ 2011-PR-023**

**PROFFER STATEMENT**

**September 14, 2011  
February 24, 2012  
May 25, 2012  
July 23, 2012  
August 31, 2012  
September 10, 2012  
October 10, 2012  
October 16, 2012  
October 26, 2012**

Rezoning Application RZ 2011-PR-023 (the "Rezoning") has been filed by and on behalf of (i) CITYLINE PARTNERS LLC, as applicant, (ii) FRANKLIN 7903 WESTPARK LLC, GRAYSON 7913 WESTPARK LLC, CAMPBELL-SCOTT WESTPARK LLC, ESSEX 7929 WESTPARK LLC and FREDERICK 8003 WESTPARK LLC, as owners of land identified as Fairfax County Tax Map Parcels 29-4-((7))-1, -2, -3, -9 and -10 (collectively the "Cityline Property"), (iii) AMT-THE ASSOCIATION FOR MANUFACTURING TECHNOLOGY, as owner of land identified as Fairfax County Tax Map Parcel 29-4-((7))-5A (the "AMT Property"), and (iv) the BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA (the "Board"), as owner of an approximately 3,428 square foot portion of the Westbranch Drive right-of-way proposed for future abandonment and/or vacation. Such right-of-way, together with the Cityline Property and the AMT Property, are referred to collectively as the "Subject Property." The Rezoning seeks to rezone the Subject Property from the C-3 (proffered), SC and HC Districts to the PTC-Planned Tysons Corner Urban ("PTC"), SC and HC Districts.

Pursuant to Sect. 15.2-2303(A) of the Code of Virginia (1950), as amended, and Sect. 18-204 of the Zoning Ordinance of Fairfax County (1978), as amended, the applicant and the property owners on behalf of themselves and their respective successors and/or assigns (referred to hereafter, both collectively and, where appropriate, individually as the "Applicant"), hereby proffer that redevelopment of the Subject Property shall be in accordance with the following conditions (the "Proffers") if, and only if, the Rezoning, as proposed by the Applicant, is granted by the Board. If the Rezoning is granted by the Board, these Proffers shall replace and supersede any and all existing proffered conditions applicable to the Subject Property. In the event the Rezoning is denied by the Board, these Proffers shall immediately be null and void and the previous proffered conditions shall remain in full force and effect.

**GENERAL**

1. **Substantial Conformance.** Subject to the Proffers and the provisions of Sect. 6-500, Sect. 16-400 and Sect. 18-204 of the Zoning Ordinance of Fairfax County, as amended (the "Zoning Ordinance"), the Subject Property shall be developed in substantial conformance with the proffered elements of the Arbor Row Conceptual Development Plan ("CDP") dated April 26,

2011, as revised through October 5, 2012, and prepared by Bowman Consulting Group, Ltd., WDG Architecture, PLLC, Shalom Baranes Associates, P.C., KGD Architecture and Parker Rodriguez, Inc., and as further modified by these Proffers.

2. Redevelopment of Blocks A through F. The Subject Property is divided into six (6) separate redevelopment "Blocks," which are identified on the CDP as Blocks A through F. Development of each Block may proceed in any order, provided that each such Block provides the phasing conditions depicted for such Block on the CDP and that all Proffers that apply to such Block are addressed with the redevelopment of that Block. Where a Proffer establishes an obligation that applies to redevelopment of a specific Block, reference to the "Applicant" in such Proffer shall mean the party undertaking the redevelopment of such Block.

3. Proffered CDP Elements. The proffered elements of the CDP are limited to the grid of streets, the general location of the points of access to each Block of the proposed redevelopment, the general location of the buildings, mix of uses, the build-to lines, the overall maximum gross floor area ("GFA") for the Subject Property, the minimum and maximum building heights, the minimum amount and general location of publicly-accessible urban park land as may be applicable for each Block and the general quality and character of the streetscape along the public and private streets within and abutting the Subject Property and as otherwise specified in these Proffers. Other elements of the CDP may be adjusted or modified with future Final Development Plan ("FDP") approvals in accordance with Sect. 16-402 of the Zoning Ordinance.

4. Minor Modifications to the CDP. In addition to adjustment of GFA among and within uses and buildings in certain Blocks as provided for below, minor modifications to the CDP may be permitted as determined by the Zoning Administrator, including the flexibility to modify the layout shown on the CDP for each respective Block, without requiring approval of an amended CDP, provided such modifications are in substantial conformance with the CDP and these Proffers and do not affect the proffered elements of the CDP as specified in these Proffers. Building envelopes and the number of units, rooms, floors and square footage within and among the buildings may be adjusted as set forth on the CDP and in these Proffers, as long as (i) the build-to lines shown on the CDP are maintained; (ii) the minimum and maximum number of residential units and the minimum and maximum building heights comply with those indicated on the CDP and in these Proffers; and (iii) the redevelopment otherwise is in substantial conformance with the CDP and these Proffers.

5. Severability and Future PCA/CDPA/FDP/FDPA/SE/SP Applications. Any one or more of the individual Blocks A through F as shown on the CDP may be the subject of a separate Proffered Condition Amendment ("PCA"), Conceptual Development Plan Amendment ("CDPA"), Final Development Plan ("FDP"), Final Development Plan Amendment ("FDPA"), Special Exception ("SE"), Special Permit ("SP"), variance and/or other similar land use applications, without joinder and/or consent of the owners of any of the other Blocks, provided such application will not change or cause or require a change to the general layout, physical improvements and/or access for another Block. In addition, pursuant to Par. 6 of Sect. 18-204 of the Zoning Ordinance, any portion of any Block may be the subject of a separate PCA, CDPA,

FDP, FDPA, SE, SP, variance and/or other similar land use applications, without joinder and/or consent of the owners of the other portions of such Block or of any other Block, provided that such application does not materially or adversely affect the general layout, minimum and maximum building height, physical improvements and/or access for other portions of such Block or any other Block. All existing land use approvals that are applicable to the portion of the Subject Property not included in such PCA, CDPA, FDP, FDPA, SE, SP, variance and/or other similar land use applications shall otherwise remain in full force and effect as to such portion of the Subject Property.

6. Final Development Plans. FDP and FDPA approvals may be requested from the Planning Commission in accordance with Sect. 16-402 of the Zoning Ordinance with respect to each respective Block, or portion thereof, without obtaining the consent and/or joinder of the owners of any of the other Blocks. FDPs approved for individual Blocks or building sites on the Subject Property shall establish the maximum GFA for each Block or building shown on the FDP, within the limits established by these Proffers and the CDP, including adjustments between buildings as set forth in these Proffers and on the CDP. The specific GFA for each building shall be established at the time of final site plan approval for such building; however, adjustments between buildings on Blocks A through E may be permitted as set forth in these Proffers and on the CDP.

7. Final Development Plan Information. The following Final Development Plans have been filed concurrently with this Rezoning Application: FDP 2011-PR-023 for Block A, FDP 2011-PR-023-3 for Block E and FDP 2011-PR-023-2 for Block F. For all other FDP and FDPA Applications for all or any portion of the Subject Property not filed concurrently with this Rezoning Application, the following tabulations and information shall be provided:

- A. A tabulation indicating the redevelopment status of the entire Subject Property. The tabulation shall include a listing of all existing and proposed buildings, along with the GFA and uses approved on the CDP and all approved FDPs and any approved site plans. The tabulation shall identify the reassignment of any GFA within Blocks A through E (as compared with what was originally shown on the applicable CDP), exclusive of Block F, and shall be updated with each subsequent FDP, FDPA and site plan approved for the Subject Property.
- B. A tabulation indicating the tree canopy calculations of the entire Subject Property, which shall be updated with each subsequent FDP, FDPA and site plan approved for the Subject Property.
- C. The following information to supplement the requirements of the Zoning Ordinance: (i) a copy of the previous TDM Annual Report to determine progress toward attaining TDM goals and any planned modifications to the TDM Program; (ii) location of existing and proposed utilities to serve the area subject to such FDP, FDPA or site plan; (iii) vehicular sight distance lines at all intersections adjacent to the area subject to such FDP,

FDPA or site plan based on existing posted/design speeds as well as future design speeds, as established in the approved "Transportation Design Standards for the Tysons Corner Urban Center," dated September 13, 2011 (the "Transportation Design Standards"), as may be amended by the Board, except as waived or modified by the Virginia Department of Transportation ("VDOT") and/or FDCOT; and (iv) a comparison of the trip generation based on the Institute of Traffic Engineers, 8th Edition, Trip Generation rates and/or equations (the "ITE Trip Generation"), associated with the FDP or FDPA for the subject Block compared to those uses reflected for that Block in the Transportation Impact Analysis prepared by Wells & Associates, dated May 23, 2011, as revised December 2, 2011 ("TIA").

- D. Adjustments to GFA within and between certain Blocks as provided in Proffer 10 and Proffer 12, respectively.
- E. List of proposed uses as set forth in Proffer 13 and identified on the CDP and demonstration of how such uses meet the applicable "Use Limitations" of the PTC District.
- F. Architectural elements and build-to lines as provided in Proffer 18 and Proffer 19.
- G. Graphic depiction of, and any adjustments to, the activated streetscape elements as provided in Proffer 20.
- H. Proposed parking garage façade treatments as provided in Proffer 21.
- I. Building heights for Blocks B, C and D as provided in Proffer 22.
- J. Detailed landscape plans as provided in Proffer 35 with alternative planting width details, as may be necessary as provided in Proffer 36.
- K. Refinement of, and adjustments to, streetscape elements as provided in Proffer 38.
- L. Provision of a preliminary utility plan overlaid over the landscape plan, including the location of any utility vaults and maintenance points to stormwater management facilities as provided in Proffer 40.
- M. Submission of a "Streetscape Furnishing and Materials Plan" as provided in Proffer 42.

- N. Identification of specific proposed phased improvements in accordance with those generally set forth on the phasing-related exhibits provided on Sheets C8.1 through C8.4 of the CDP (collectively, the "Phasing Sheets").
- O. For on-site parks and active recreation facilities, depiction of special amenity features committed by Block as provided in Proffer 55.
- P. Bicycle parking and storage and bicycle lane dimensions as provided in Proffer 82 and Proffer 83, respectively.
- Q. Refinement of the number of parking spaces as provided in Proffer 84.
- R. Identification of specific stormwater management facilities as provided in Proffer 94.

8. Fire Marshal. The Applicant has coordinated the layouts depicted on the CDP and the concurrent FDPs filed for Blocks A, E and F with the Fire Marshal. Further changes to the CDP and FDPs shall be permitted in response to the review of site plans by the Fire Marshal, including adjustments to the streetscape and perimeter building areas as necessary to allow for required emergency vehicle access, provided such modifications are made in consultation with the Fairfax County Department of Planning and Zoning ("DPZ"), and the Fairfax County Department of Transportation ("FCDOT") and the Office of Community Revitalization ("OCR") and are in substantial conformance with the intent of the CDP, FDPs and these Proffers.

#### **PERMITTED USES AND INTENSITY/DENSITY**

9. Maximum Gross Floor Area ("GFA"). The maximum GFA permitted on the Subject Property is 2,575,685 square feet, inclusive of density bonuses, in a mix of land uses across Blocks A through F. Of this 2,575,685 square feet of GFA, 200,000 square feet of GFA shall be allocated to and reserved for Block F and the remaining 2,375,685 square feet shall be allocated and reserved for Blocks A through E, as shown on the CDP. The maximum GFA for office use on the Subject Property shall be 1,108,429, which includes the maximum 200,000 GFA for office use on Block F.

10. Adjustments to GFA in Blocks B, C and D. GFA may be adjusted among and within uses and buildings in Blocks B, C and D up to a maximum GFA equivalent of two floor plates, as listed on the CDP and depicted conceptually on the CDP, without requiring a PCA, CDPA or FDPD provided the maximum heights for each building are not exceeded, the minimum heights for these Blocks are maintained, the overall urban form and building types depicted on the CDP are maintained, and such adjustments are consistent with these Proffers. With respect to Blocks B, C and D, if the GFA approved with the FDP for a building is less than the maximum shown on the CDP for such building, or if the GFA approved with the site plan for such building is less than the maximum shown on the FDP, the excess GFA may be utilized in another building or buildings within Blocks B, C and D notwithstanding the notes on the CDP, provided the maximum heights for each building are not exceeded, the minimum heights and

minimum total GFA for these Blocks, as described in the notes on the CDP, are maintained, the overall urban form and building types depicted on the CDP are maintained, such adjustments are consistent with these Proffers, and a tabulation identifying the GFA assigned to Block B, Block C and Block D is provided with each site plan for each Block. The GFA available for Blocks B, C and D shall be established upon filing and approval of a site plan, based on when the site plan is filed and accepted for review by the County.

11. Residential Dwelling Units in Blocks A and E. Block A shall contain a minimum of 450 residential dwelling units and a maximum of 694 residential dwelling units. In the event that retail/service uses in Block A are converted to Live-Work Units, as described in Proffer 14, this maximum shall increase to 704 residential dwelling units. Block E shall contain a minimum of 430 residential dwelling units and a maximum of 480 residential dwelling units.

12. Adjustments to GFA within Block A. GFA may be shifted between the two residential buildings located within Block A provided the maximum height shown for each building is not exceeded, the overall urban form and building type as shown on the CDP and the approved FDP for Block A are maintained, and such adjustments are consistent with these Proffers. Within Block A, if at the time of site plan, the GFA approved for one residential building is less than the GFA shown on the approved FDP, the excess GFA may be utilized in the other residential building within Block A, provided the maximum heights for each building are not exceeded, the minimum heights and minimum total GFA for each building is maintained, the overall urban form and building types depicted on the CDP are maintained, and such adjustments are consistent with these Proffers.

13. Uses. The primary uses on the Subject Property shall be office, hotel and residential as identified on the CDP, with ancillary retail, services and other uses, including uses listed in the CDP notes and may include accessory uses and/or accessory service uses as defined in the Zoning Ordinance. "Retail/Services" as identified in the redevelopment tabulations on the CDP may include any non-residential use permitted by-right, by SE or by SP in the PTC District, exclusive of office, as limited by Sect. 6-505 "Use Limitations," including accessory uses and/or accessory service uses. Such retail/service uses may be provided generally within the ground floor (i.e., street level) of the proposed buildings; however such uses may also be provided within upper floors if shown on an FDP. The type, extent and location of all "Retail/Services" and other permitted uses shall be provided with the submission of the FDP for each Block.

14. Live-Work Units. The Applicant shall use good faith, commercially reasonable efforts to lease the spaces designated for non-residential uses in residential buildings. The occupancy of such areas with such a non-residential use shall not be a condition to issuance of Residential Use Permits ("RUPs") and/or Non-Residential Use Permits ("Non-RUPs") for other uses in any of the buildings on their respective Blocks or elsewhere on the Subject Property.

In the event that the Applicant is unsuccessful in leasing, at market rates and on market terms for non-residential tenants comparable to tenants in similar residential buildings and acceptable to the owner of the building, any of the non-residential GFA for the respective Blocks after a period of at least thirty-six (36) months after issuance of the first RUP for the building in

which such non-residential GFA would be located, then such Applicant shall demonstrate its good faith, commercially reasonable marketing efforts to the Zoning Administrator who shall confirm that good faith, commercially reasonable efforts have been made. If the Zoning Administrator confirms that good faith, commercially reasonable efforts have been made, thereafter such Applicant may utilize such spaces that have not been successfully leased as described above, for Live-Work Units, with such units counting as residential use as noted on the CDP. The retail or other non-residential component of such units may include any of the non-residential uses permitted in accordance with the notes on the CDP, except that the following non-residential uses shall not be permitted: tattoo parlors, pay day lenders, check cashing services, and adult-themed businesses that are obscene or indecent in nature. All Live-Work Units on the Subject Property shall be subject to all per residential dwelling unit contributions set forth in these Proffers, including transportation, workforce housing and school contributions, which contributions shall be paid prior to issuance of the applicable RUP and/or Non-RUP for the first user of each Live-Work Unit. A Live-Work Unit shall be defined as a combination of a private dwelling unit with retail or other non-residential use, with the dwelling unit occupied by the proprietor, storekeeper or employee and his/her family, of the non-residential use. These Live Work-Units shall be permitted without requiring approval of a PCA or CDPA; however, FDPA approval will be required prior to issuance of a RUP and/or Non-RUP for such Live-Work Units.

15. SE/SP Uses. Uses allowed by SE or SP in the PTC District may be authorized through the approval of a separate SE or SP application without the need for a PCA, CDPA, FDP, or FDPA, provided the use is in substantial conformance with the approved CDP and these Proffers.

16. Intensity/Density Reservation. All intensity/density attributable to land areas dedicated and/or conveyed at no cost to the Board or any other public entity pursuant to these Proffers (including, without limitation, the dedications referenced below) shall be subject to the provisions of Par. 4 of Sect. 2-308 of the Zoning Ordinance and is hereby reserved to the residue of the parcel of land from which it came.

17. Existing and Interim Structures and Uses. Existing structures and parking areas on Blocks A through F, as shown on the CDP, may be demolished or remain in use until such time as those portions of the Subject Property are redeveloped in accordance with this Rezoning, or as otherwise stated in these Proffers. Existing structures may not be modified or enlarged; however, minor structure additions may be approved by the Zoning Administrator pursuant to the provisions of Par. 4 of Sect. 16-403 of the Zoning Ordinance. Interior modifications to all existing structures shall be permitted. Any use that is permitted in the "C-3 Office District," including uses subject to SE and SP approval, shall be permitted on the Subject Property as an interim use subject to the Use Limitations in Sect. 4-304 of the Zoning Ordinance, including privately owned and operated commercial off-street parking and commuter parking, which shall be permitted upon notification to FCDOT and without PCA/CDPA/FDP/FDPA approval, as an interim use on the existing parking areas in Blocks A, B, C and/or D, at the sole discretion of the

Applicant as to each respective Block and remain privately owned and operated at rates determined by the Applicant.

### ARCHITECTURAL DESIGN

18. Proffered Architectural Quality and Elements. Buildings shall create a sense of identity and place at a human scale through the use of unifying elements such as materials, textures, color, window treatments, detailing, lighting and landscaping. Buildings shall be designed of high-quality architecture and building materials that are typically used on the exterior of Class A office, residential and hotel buildings of a similar quality as conceptually depicted on the CDP, with architectural details provided at the time of FDP approval for the respective Blocks. No exterior insulation and finish systems (EIFS) shall be used, unless specifically approved by Fairfax County (the "County") with an FDP for an individual building or Block. Each FDP shall, for the Block on which that FDP is filed, specify the building materials, architecture, and specific features designed to activate streetscapes, as further described below. Architectural plans, elevations, illustrations, materials and heights may be revised subsequent to CDP and FDP approval as a result of final architectural and engineering design, provided the quality of design remains in substantial conformance with that shown on the CDP and subsequent FDPs and set forth in these Proffers, as determined by the Fairfax County Department of Public Works and Environmental Services ("DPWES") in consultation with DPZ or OCR without the need for administrative approval.

19. Build-To Lines. Build-to-lines ("BTL") have been depicted on the CDP to create an urban, pedestrian-oriented environment where buildings are located close to the adjacent street and pedestrian/streetscape areas are located between the buildings and the streets. In general, building façades are intended to be configured where possible to provide a continuous street wall along this line, but modifications to either side of the BTL shall be permitted provided they are in general conformance with the CDP and are shown on an approved FDP. Awnings, building signage and other architectural canopies attached to the building frontage that project out from the BTLs shall provide adequate clearance for pedestrian movement and shall not conflict with street tree locations. At the time of FDP approval, possible locations along the street level for outdoor dining adjacent to cafes and restaurants shall be identified, as applicable, and appropriate building zones for such uses shall be identified, as applicable.

20. Activated Streetscape. Buildings A-1, A-2, B, C-1, C-2, D, E and F, but not the parking garages associated with such buildings, shall generally be designed and constructed with ground floors having a minimum floor to floor height of 12 feet along Westpark Drive and Westbranch Drive to accommodate potential non-residential uses designed to activate the streetscape. In addition, a hierarchy of activated streetscapes shall be provided as delineated and described conceptually on the "Pedestrian Hierarchy Plan" presented on the CDP. The specific activation elements to be utilized for each building shall be included on the FDP for each Block.

- A. Primary Pedestrian Corridors. "Primary Pedestrian Corridors" are intended to have the highest levels of pedestrian activity and interaction

and typically have the widest streetscape and most animated building façades. Primary Pedestrian Corridors shall generally incorporate the following elements, which can be adjusted at the time of FDP approval for each respective Block:

- i. Where the ground floors of buildings (not including the associated parking garages which are addressed below) incorporate non-residential uses, functioning entry doors into such uses shall be provided with a maximum separation of 75 feet, unless a greater separation is needed to accommodate larger tenant spaces, topographical features or as may be approved by the Zoning Administrator. A minimum of fifty percent (50%) of the area of the street front ground floor façades of such buildings shall be constructed with glazed windows and doors or other transparent, translucent materials.
  - ii. Parking garages and loading/trash/service areas along the ground floor façades shall incorporate screening composed of architectural and/or landscaping treatments designed to mitigate views into the structures from street level, or the general façade detailing of the building above such areas may be continued to the ground plane.
  - iii. Except for Block F, access to parking garages and loading/trash/service areas shall not be provided directly from Westpark Drive but may be provided from internal private streets that connect to Westpark Drive.
  - iv. Loading/trash/service areas shall be screened, to the extent reasonably practicable, from public view through the use of roll down doors, recessed entryways and/or similar treatments.
- B. Secondary Pedestrian Corridors. "Secondary Pedestrian Corridors" typically have significant pedestrian volumes and generally are used for pedestrian movement as opposed to pedestrian interaction. Some retail activity may occur in these corridors, but generally it will be neighborhood-serving. Residential and civic uses should have their entrances facing Secondary Pedestrian Corridors which generally have wide streetscapes and significant building façade animation in proximity to such entrances. Secondary Pedestrian Corridors generally shall incorporate the following elements, which can be adjusted at the time of FDP approval for each respective Block:
- i. Where the ground floors of buildings (not including the associated parking garages which are addressed below) incorporate non-residential uses, functioning entry doors into such uses shall be

provided with a maximum separation of 75 feet, unless a greater separation is needed to accommodate larger tenant spaces, topographical features or as may be approved by the Zoning Administrator. A minimum of thirty-five percent (35%) of the area of the street front ground floor façades of such buildings shall be constructed with glazed windows and doors or other transparent, translucent materials.

- ii. In portions of residential buildings (not including the associated parking garages which are addressed below) that do not incorporate non-residential uses on part or all of the ground floors, the building design of the primary façades shall incorporate, to the degree feasible, leasing offices, lobbies, recreational and amenity spaces on the ground floor with a minimum of thirty-five percent (35%) of the ground floor façade constructed with glazed windows and/or doors or other transparent, translucent materials, and/or incorporate entries into individual dwelling units from the street level. Residential units that have direct access to the streetscape from an individual unit shall use design features to provide interior privacy (such as having a ground floor elevation that is above the sidewalk grade or through the use of landscape buffers), except conditions where Live-Work Units may be permitted as provided in Proffer 14, combining work areas open to the public with residential areas.
  - iii. Parking garages and loading/trash/service areas along the ground floor façades shall have screening composed of architectural and/or landscaping treatments designed to restrict views into the parking garages from street level or the general façade detailing of the building above may be continued to the ground plane.
  - iv. If access to parking garages and loading/trash/service areas are provided along secondary pedestrian corridors then loading/trash/service areas shall be screened from public view through the use of roll down doors, recessed entryways and/or similar treatment.
- C. Tertiary Pedestrian Corridors. "Tertiary Pedestrian Corridors" are intended to accommodate modest pedestrian activity-making connections to less intense areas or through alleys. Tertiary Pedestrian Corridors shall incorporate the following elements, which can be adjusted at the time of FDP approval for each Block:
- i. Where the ground floors of buildings (not including the associated parking garages which are addressed below) incorporate non-

residential uses, a minimum of twenty percent (20%) of the area of the ground floor façades of such buildings shall be constructed with glazed windows and doors or other transparent, translucent materials.

- ii. In residential buildings (not including the associated parking garages which are addressed below) that do not incorporate non-residential uses on part or all of the ground floors, efforts shall be made to incorporate recreational and amenity spaces on the ground floor with appropriate transparency and/or incorporate entries into individual dwelling units from the street level. Residential units that have direct access to the streetscape from an individual unit shall utilize design features to provide interior privacy (such as having a ground floor elevation that is above the sidewalk grade or through the use of landscape buffers).
- iii. Parking garages and loading/trash/service areas along the ground floor façades shall have screening composed of architectural and/or landscaping treatments designed to restrict views into the parking garages from street level, or the general façade detailing of the building above may be continued to the ground plane.
- iv. Access to parking garages and loading/trash/service areas may be provided along tertiary pedestrian corridors and from the adjacent private alleys. Loading/trash/service areas shall be screened from public view through the use of roll down doors, recessed entryways and/or similar treatment.

21. Parking Structure Façade Treatments. Parking garage façade design features shall be depicted on the FDPs for each Block and shall be designed to provide a pleasant and attractive experience along the streetscape in accordance with the following:

- A. At and above the street level, screening composed of architectural systems and/or landscaping designed to minimize views into the garage parking spaces from street level shall be applied.
- B. Where garage space is located beneath a tower element, in some instances, the general façade detailing of the tower above may be continued down to the top of the retail level storefront.
- C. Retail signage and/or architectural elements may be extended above the street level to provide a variety of storefront experiences, as may be permitted by the Zoning Ordinance and/or a future Comprehensive Sign Plan.

- D. Areas of above-grade parking decks may be wrapped by active uses at the ground floor to screen the garage areas from street view.
- E. Areas of above-grade garages located between towers shall also be treated architecturally and/or with landscaping.
- F. For purposes of this Proffer, materials to treat parking garage façades may include, but not be limited to: metal framing systems with inserted panels of wire mesh, metal, glass, natural vegetation or other materials; precast concrete or masonry elements; vegetative screening systems; glass stair towers and elevators, or other systems approved at the time of FDP.

22. Minimum and Maximum Building Heights. Building heights shall not exceed the maximum heights identified on the CDP for each Block as measured from the average grade. Final building and podium heights shall be determined at the time of site plan approval, and may be less than the maximum height shown on the CDP, provided that the buildings retain a compatible urban form to that shown on the CDP and that the average roofline of the primary building or buildings on each Block are not less than minimum heights shown in the CDP tabulations. For residential buildings, maximum building heights shall include penthouses and all rooftop structures. For non-residential buildings, structures that are excluded from the maximum height regulations as set forth in Sect. 2-506 of the Zoning Ordinance may be constructed to a height not to exceed thirty (30) feet above the roof level of the top floor of the building; all building penthouses and rooftop structures shall be integrated into the architecture of the building, and the height and extent of any rooftop penthouse shall be provided on the FDP for each respective Block and/or buildings.

23. Rooftop Telecommunications Equipment and Mechanical Units. Telecommunications equipment, mechanical units and all appurtenant facilities may be placed on the rooftop of any building. Any such facilities must comply with the applicable requirements of the Zoning Ordinance and be screened and/or set back sufficiently from the perimeter of the roof and penthouse such that they are generally not visible from the surrounding streets at street level when viewed from the property line of the Subject Property. Screening measures may, without limitation (i) include screening with architectural features and/or landscaping compatible with the building façade architecture, (ii) include the facilities as part of the architecture of the buildings, (iii) utilize compatible colors, or (iv) employ telecommunication screening material and flush-mounted antennas. Telecommunications equipment also may be architecturally integrated onto the façades of the building where necessary to ensure on-street and/or open space coverage. Rooftop amenities such as amenity terraces, landscaping or recreation courts may also be used to screen rooftop telecommunications equipment and mechanical units.

24. Trellises and Arbors. As shown conceptually on the CDP, the main trellis structures may be located along Westpark Drive and may consist of, but shall not be limited to, materials such as steel or aluminum, concrete or similar materials/systems. The height of the main trellis structures shall range from approximately 12 to 22 feet and generally be compatible with the height of the retail podium. As determined by the Applicant, additional trellis-type

structures may be located throughout the Subject Property as architectural features. Arbor structures which incorporate natural vegetation as a shading device may be located on the top decks of parking garages in Blocks B, C, D and F (in lieu of interior parking lot landscaping if approved by the Board) and, as determined by the Applicant, may be located elsewhere on the Subject Property as architectural design features and/or shading devices. Such arbors shall consist of, but shall not be limited to, materials such as steel or aluminum, wood, concrete or other similar materials/systems.

### **GREEN BUILDING AND SUSTAINABLE ENERGY PRACTICES**

25. **LEED Equivalents and Conflicts.** All references in these Proffers to the U.S. Green Building Council ("USGBC") shall also and equally apply to such other green building certifying entities selected by the Applicant as to each respective Block in connection with redevelopment of the buildings on each Block, provided such alternative certifying entity is acceptable to the County. All references in these Proffers to a Leadership in Energy and Environmental Design ("LEED") rating system shall also and equally apply to such other LEED or similar rating system determined to be applicable by the USGBC or such alternative certifying entity. In the event a LEED or LEED equivalent requirement (i.e. prerequisite) precludes compliance with other applicable building code or other legal requirements, as determined by DPWES, construction of the buildings on each respective Block may, at the option of the party constructing such building, comply with such other applicable building code or other legal requirement, and in such case, shall not be required to comply with the conflicting LEED or LEED equivalent requirement.

26. **Block F Office Green Building Practices.** With Block F, the Applicant shall include a LEED accredited professional ("LEED-AP") as a member of the design team for Block F. The LEED-AP shall work with the design team for Block F to incorporate design elements under the USGBC's LEED Core and Shell ("LEED-CS") rating system into the office building to be constructed on Block F. At the time of site plan submission for Block F, the Applicant shall provide documentation to the Environmental and Development Review Branch ("EDRB") of DPZ, demonstrating compliance with the commitment to engage such a professional. The Applicant has registered the office building to be constructed on Block F with the USGBC under the 2009 version of the LEED-CS rating system. In the event the USGBC establishes a newer version of the LEED-CS rating system, the Applicant shall have the option to: 1) proceed under the 2009 version of the LEED-CS rating system, so long as the USGBC continues to administer such version, or 2) proceed under the newer version of the LEED-CS rating system. The Applicant will include, as part of the site plan submission and building plan submission for the office building to be constructed on Block F, a list of specific credits within the applicable LEED-CS rating system that it anticipates attaining for the office building on Block F. The LEED-AP, who is also a professional engineer or licensed architect, will provide statements at both the time of site plan review and the time of building plan review confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED Silver certification for the office building to be constructed on Block F. In addition, prior to site plan approval for Block F, the Applicant will designate the Chief of the EDRB as a team member in

the USGBC's LEED online system with respect to the office building on Block F. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork. Prior to building plan approval for the office building to be constructed on Block F, the Applicant shall provide documentation to EDRB demonstrating that the office building on Block F has applied for LEED Gold pre-certification under the applicable LEED-CS program. Prior to release of the bond for the office building on Block F, the Applicant shall provide documentation to the EDRB demonstrating the status of attainment of LEED certification or a higher level of certification from the USGBC for the office building on Block F. If the Applicant is unable to provide the precertification documentation prior to building plan approval, but does anticipate receiving the documentation prior to the attainment of LEED certification, it may, prior to the issuance of the building permit, post an escrow identical to the one described in Proffer 27 below. This escrow will be released upon the Applicant's submission of documentation from the USGBC to the EDRB demonstrating that the office building on Block F is anticipated to attain a sufficient number of credits to attain LEED Gold certification.

27. Block F Alternative Green Building Escrow. As an alternative to the actions outlined in Proffer 26 above, or if the USGBC's pre-certification documentation indicates that the office building to be constructed on Block F is not anticipated to attain LEED Gold certification, the Applicant shall execute a separate agreement and post a "Green Building Escrow" in the form of cash or a letter of credit from a financial institution acceptable to DPWES as defined in the Fairfax County Public Facilities Manual ("PFM") or a surety bond from a financial institution licensed to do business in Virginia in the amount of \$2.00 per gross square foot of GFA for the office building to be constructed on Block F. The Green Building Escrow will be in addition to, and separate from, other bond requirements and will be released upon demonstration of the attainment of LEED Silver certification, or a higher level of certification, by the USGBC under the applicable version of the LEED-CS rating system. The provision to the EDRB of documentation from the USGBC that the office building on Block F has attained LEED Silver certification will be sufficient to satisfy this commitment. The Green Building Escrow shall be released in accordance with the following: 1) if the Applicant provides to the EDRB, within three years of the issuance of the first tenant Non-RUP for the office building on Block F, documentation demonstrating that LEED Silver certification for the office building on Block F has been attained, the entirety of the Green Building Escrow shall be released to the Applicant who posted the Green Building Escrow, 2) if the Applicant provides to the EDRB, within three years of the issuance of the first tenant Non-RUP for the office building on Block F, documentation demonstrating that LEED Silver certification for such office building has not been attained but that such office building has been determined by the USGBC to fall within three points of attainment of LEED Silver certification, 50% of the Green Building Escrow shall be released to the Applicant who posted the Green Building Escrow; the other 50% shall be released to Fairfax County and will be posted to a fund within the County budget supporting the implementation of County environmental initiatives, and 3) if the Applicant fails to provide to the EDRB, within three years of the issuance of the first tenant Non-RUP for the office building on Block F, documentation demonstrating the attainment of LEED Silver certification or

demonstrating that the office building on Block F is within three points of LEED Silver certification, the entirety of the Green Building Escrow shall be released to Fairfax County and will be posted to a fund within the County budget supporting the implementation of County environmental initiatives. If the Applicant provides evidence that such LEED-CS certification has been delayed through no fault of its own or of its contractors or subcontractors, the time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicant or to the County during this extended time frame.

28. Blocks B, C and D Green Building Practices. A LEED-AP professional shall be included as a member of the design team for Blocks B, C and D, respectively. The LEED-AP shall work with the design teams for Blocks B, C and D to incorporate appropriate LEED design elements for each building, under a version of the LEED rating system available at the time of registration, into the office and hotel buildings to be constructed on Blocks B, C and D. At the time of site plan submission, documentation shall be provided to the EDRB demonstrating compliance with the commitment to engage such a professional. In addition, prior to site plan approval for their respective Blocks, the Chief of the EDRB shall be designated as a team member in the USGBC's LEED online system for each proposed office and hotel building. This team member will have privileges to review the project status and monitor the progress of all documents submitted by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

As part of the building plan submission for each office and hotel building to be constructed on their respective Blocks, a list of specific credits within a version of the LEED rating system available at the time of registration (or such other rating system as may be applicable under Proffer 25) that is anticipated to be attained for such office and hotel building shall be included. The LEED-AP who is a professional engineer or licensed architect will provide certification statements at the time of site plan review and building plan review, confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED Silver certification for the subject office and hotel building. Each building on their respective Blocks may be pursued separately, and certification pursuant to this Proffer or the alternative provided below may be pursued on a building-by-building basis.

Prior to final building plan approval, documentation shall be submitted to the EDRB for their respective Blocks demonstrating that the subject office or hotel building has applied for at least LEED Gold pre-certification under LEED-CS or the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED Gold certification under LEED-New Construction ("LEED-NC"). Prior to release of the bond for the subject office or hotel building, documentation shall be provided to the EDRB for their respective Blocks demonstrating the status of attainment of LEED Gold or a higher level of certification from the USGBC for the office or hotel buildings on their respective Blocks. If either the pre-certification or design phase review documentation cannot be provided prior to building plan approval, but it is anticipated that the documentation will be received prior to the attainment of LEED certification, then prior

to the issuance of the building permit, an escrow identical to the one described in Proffer 29 below may be posted. This escrow will be released upon the submission of documentation to the EDRB from the USGBC demonstrating that the office or hotel building is anticipated to either attain a sufficient number of credits to attain LEED Gold pre-certification or the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED Gold certification under LEED-NC.

29. Blocks B, C and D Alternative Green Building Escrow. As an alternative to the actions outlined in Proffer 28 above, or if the USGBC's pre-certification or design phase review indicates that the office or hotel building to be constructed on Blocks B, C and D is not anticipated to attain LEED Gold certification, then, a separate agreement shall be executed for that office or hotel building, a "Green Building Escrow" in the form of cash or a letter of credit from a financial institution acceptable to DPWES as defined in the PFM or a surety bond from a financial institution licensed to do business in Virginia, in the amount of \$2.00 per gross square foot of GFA shall be posted for that office or hotel building. This Green Building Escrow will be in addition to, and separate from, other bond or escrow requirements for the subject building and shall be released upon demonstration of attainment of certification by the USGBC under any available version at the time of such Applicant's registration in a LEED rating system. The provision to the EDRB of documentation from the USGBC that each office or hotel building has attained LEED Silver or higher certification will be sufficient to satisfy this commitment. The Green Building Escrow shall be released in accordance with the following: 1) if the Applicant provides to the EDRB, within three years of the issuance of the first tenant Non-RUP for each office or hotel building, documentation demonstrating that LEED Silver certification for such building has been attained, the entirety of the Green Building Escrow shall be released to the Applicant who posted the Green Building Escrow, 2) if the Applicant provides to the EDRB, within three years of the issuance of the first tenant Non-RUP for such building, documentation demonstrating that LEED Silver certification for such building has not been attained but that such building has been determined by the USGBC to fall within three points of attainment of LEED Silver certification, 50% of the Green Building Escrow shall be released to the Applicant who posted the Green Building Escrow; the other 50% shall be released to Fairfax County and will be posted to a fund within the County budget supporting the implementation of County environmental initiatives, and 3) if the Applicant fails to provide to the EDRB, within three years of the issuance of the first tenant Non-RUP for such building, documentation demonstrating the attainment of LEED Silver certification or demonstrating that such building is within three points of LEED Silver certification, the entirety of the Green Building Escrow shall be released to Fairfax County and will be posted to a fund within the County budget supporting the implementation of County environmental initiatives. If evidence is provided that such LEED Silver or higher certification has been delayed through no fault of the Applicant, the time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made to the Applicant or to the County during this extended time frame.

30. Blocks A and E Residential Green Building Practices. A LEED-AP professional shall be included as a member of the design team for Blocks A and E, respectively. The LEED-

AP shall work with the design team to incorporate design elements under a version of the LEED-NC rating system available at the time of such Applicant's registration into the residential buildings to be constructed on Blocks A and E. At the time of site plan submission, documentation shall be provided to the EDRB demonstrating compliance with the commitment to engage such a professional. In addition, prior to site plan approval for these respective Blocks, the Chief of the EDRB shall be designated as a team member in the USGBC's LEED online system with respect to such building. This team member will have privileges to review the project status and monitor the progress of all LEED-related documents submitted to the Green Building Certification Institute by the project team, but will not be assigned responsibility for any LEED credits and will not be provided with the authority to modify any documentation or paperwork.

As part of site plan and building plan submission for each residential building to be constructed on their respective Blocks, a list of specific credits within a version of the LEED-NC rating system available at the time of registration (or such other rating system as may be applicable pursuant to Proffer 25), which is anticipated to be attained for such residential building shall be provided. Except as otherwise provided below as an alternative, the LEED-AP, who is a professional engineer or licensed architect, will provide certification statements at the time of site plan review and building plan review, confirming that the items on the list will meet at least the minimum number of credits necessary to attain LEED-NC certification for the subject residential building. Each building on the respective Blocks may be registered separately and certification may be pursued pursuant to this Proffer or the alternative provided below on a building-by-building basis.

Prior to the building plan approval, a separate agreement shall be executed for each building, and a "Green Building Escrow," in the form of cash or a letter of credit from a financial institution acceptable to DPWES as defined in the PFM or a surety bond from a financial institution licensed to do business in Virginia shall be posted in the amount of \$2.00 per square foot of GFA for the building. This Green Building Escrow will be in addition to, and separate from, other bond or escrow requirements and shall be released upon demonstration of attainment of LEED-NC certification, by the USGBC under the project's registered version of the LEED-NC rating system or other LEED rating system determined by the USGBC to be applicable to each building. The provision to the EDRB of documentation from the USGBC that each residential building has attained LEED-NC certification shall be sufficient to satisfy this commitment. At the time LEED-NC certification is demonstrated to the Environmental Review Branch, the escrowed funds shall be released and returned to the Applicant who posted such Green Building Escrow, as applicable.

If the Environmental Review Branch receives, within three (3) years of issuance of the final RUP for the subject residential building, documentation demonstrating that LEED-NC certification for such building has not been attained but that such building has been determined by the USGBC to fall within three (3) points of attainment of LEED-NC certification, 50% of the Green Building Escrow shall be released and returned to the Applicant who posted such Green Building Escrow, as applicable, and the other 50% shall be released to the County and will be

posted to a fund within the County budget supporting implementation of County environmental initiatives.

If, within three (3) years of issuance of the final RUP for such building, documentation fails to be provided to the EDRB demonstrating the attainment of LEED-NC certification or demonstrating that the building has fallen short of LEED-NC certification by more than three (3) points, the entirety of the Green Building Escrow for that building shall be released to the County and will be posted to a fund within the County budget supporting the implementation of County environmental initiatives.

If documentation fails to be provided from the USGBC demonstrating, to the satisfaction of the Environmental Review Branch, that USGBC completion of the review of the LEED-NC certification application has been delayed through no fault of the Applicant, the proffered time frame may be extended as determined appropriate by the Zoning Administrator, and no release of escrowed funds shall be made during the extension.

31. Blocks A and E Residential Green Building Alternative. As an alternative to the actions outlined in Proffer 30 above, a certification level higher than LEED certification may be pursued, in which case a LEED-AP will provide certification statements at the time of site plan and building plan review confirming that the items on the list of specific credits will meet at least the minimum number of credits necessary to attain LEED-NC Silver certification.

Prior to building plan approval for the building to be constructed, documentation shall be submitted to the EDRB regarding the USGBC's preliminary review of design-oriented credits in the LEED program. This documentation will demonstrate that the building is anticipated to attain a sufficient number of design-related credits that, along with the anticipated construction-related credits, will be sufficient to attain LEED-NC Silver certification. Under this alternative, a "Green Building Escrow" shall not be required unless the above referenced documentation that the building is anticipated to attain LEED-NC Silver certification fails to be provided.

32. Additional Sustainable Energy Practices. The minimum energy performance criteria may be satisfied by the residential and office buildings through meeting their respective LEED requirements, but LEED requirements may be satisfied on a Block with any mix of credits. To further promote efficient, renewable and sustainable energy practices, the following shall be provided by the Applicant for each of the buildings located within a Block:

- A. Electric Vehicle Charging Infrastructure. In each Block, a minimum of one (1) recharging station that serves two (2) parking spaces for electric cars and conduit to facilitate additional future recharging stations shall be provided.
- B. Shared Energy. For any Site Plan that includes more than one building, provide an assessment of the potential, within the area subject to the Site Plan, of shared energy systems, including but not limited to combined heat

and power ("CHP") (co-generation), micro-CHP, distributed energy resources, and district heating and/or cooling, and, if a shared energy strategy will not be pursued, provide a narrative discussion regarding the reason(s) for this outcome.

- C. Energy and Water Data. To the extent there are master electric, gas and water meters for entire buildings, upon request by the County, aggregated non-proprietary energy and water consumption data, as practicable, shall be provided to the County for the buildings within each respective Block as may be applicable.

### **URBAN SITE DESIGN AND LANDSCAPING**

33. Site Design. The Subject Property shall be developed in substantial conformance with the concepts presented on the "Block Illustrative Plans," "Typical Street Sections," and "Illustrative Streetscape Elements" of the CDP, which present concepts regarding streetscapes, urban parks, urban plazas, terraces, lawns, courtyards and private amenity areas for the Subject Property. At the time of FDP approval for any portion of the Subject Property, these concepts may be modified and additional details provided, so long as they are in conformance with the CDP and with the understanding that such modifications shall be reviewed against the Tysons Urban Design Guidelines. Site design may be further modified during site plan review for each respective Block to allow for final engineering and design considerations, including, but not limited to, final utility locations, low impact development ("LID") facilities, sight distance requirements and other applicable design requirements, provided that such modifications are in substantial conformance with the FDP.

34. Landscaping. The CDP includes conceptual "Illustrative Landscape Plans" consisting of overall plans and concepts for each Block. Actual types, quantities and species of vegetation shall be determined pursuant to more detailed landscape plans submitted at the time of the first and all subsequent FDPs and site plans for each respective Block. Landscaping may be modified during site plan review for each respective Block to allow for final engineering and design considerations, including, but not limited to, final utility locations, LID facilities, sight distance requirements and other applicable requirements, provided that such modifications are in substantial conformance with the FDP.

35. Detailed Landscape Plans. As part of the site plan submission for each building on the Subject Property, a detailed landscape plan shall be submitted for the corresponding Block to the Urban Forest Management Division (the "UFMD") of DPWES for review and approval. The planting and landscaping materials shown on each detailed landscaping plan shall be in substantial conformance with those shown on the approved FDP, and shall include, among other things, irrigation information, design details for tree wells and other similar planting areas on structures and along streets, the composition of planting materials, methods for providing suspended pavement over tree root zones to prevent soil compaction, and methods for ensuring the viability of plantings on structures. Arbors (i.e., trellises) may be provided in lieu of interior

parking lot landscaping requirements, subject to Board approval of a modification of relevant Zoning Ordinance and PFM requirements.

36. Alternative Planting Width Details. Street tree species and planting sites are depicted on the CDP but remain subject to such revisions as may be approved by the UFMD at the time of FDP and site plan approval. Where minimum planting widths of eight (8) feet cannot be provided, alternative measures either as identified in the "Tysons Urban Design Guidelines" (endorsed by the Board on January 25, 2012) (the "Tysons Urban Design Guidelines") or as approved by the UFMD, shall be used to satisfy the following specifications for all planting sites:

- A. A minimum of 4 feet open surface width and 16 square feet open surface area for Category III and Category IV trees (as defined in Table 12.19 of the PFM), with the tree located in the center of such open area.
- B. A minimum rooting area of 8 feet wide (may be achieved with techniques to provide un-compacted soil below hardscape areas within the Pedestrian Realm) (as defined in these Proffers), with no barrier to root growth within four feet of the base of the tree.
- C. Soil volume for Category III and Category IV trees (as defined in Table 12.19 of the PFM) shall be 700 cubic feet per tree for single trees, but may be reduced to a minimum of 400 cubic feet where paving above root zones is necessary to accommodate pedestrian traffic or where utility locations preclude greater soil volume. For two trees planted in a contiguous planting area, a total soil volume of at least 600 cubic feet per tree shall be provided. For three or more trees planted in a contiguous area, the soil volume shall equal at least 500 cubic feet per tree. A contiguous area shall be any area that provides root access and soil conditions favorable for root growth throughout the entire area. Minimum soil volumes of 700 cubic feet will be achieved in areas of lower pedestrian volume and where pavement is not required over tree rooting zones.
- D. Soil specifications in planting sites shall be provided in the planting notes to be included in all site plans filed subsequent to the approval of this Rezoning.
- E. Tree zones shall be installed with a fully automatic drip irrigation system.
- F. Tree grates shall only be required if necessary to maintain a certain sidewalk dimension.

37. Publicly-Accessible Park and Open Space Areas. Provision of publicly-accessible park and open space areas shall be in substantial conformance with the concepts, locations and minimum acreages depicted on the CDP and as further defined in these Proffers and may be

adjusted at the time of FDP and site plan approval to allow for final engineering and design considerations.

### **STREETSCAPES**

38. Streetscape Elements. Streetscaping shall be installed throughout the Subject Property in substantial conformance with the "Block Illustrative Plans" and "Typical Street Sections" on the CDP, with more refined streetscape plans provided for each Block at the time of FDP. Except as shown conceptually on the CDP with respect to certain private access or service-type streets, streetscape elements shall generally include: a landscape amenity panel located immediately behind the face of curb; a pedestrian sidewalk adjacent to the landscape amenity panel; and a building zone between the pedestrian sidewalk and the face of the building designed to allow access to the building and/or additional landscaping adjacent to residential uses, or storefront browsing, outdoor display, outdoor dining, and similar uses adjacent to Retail/Service uses. Outdoor display and outdoor dining areas shall not be permitted within pedestrian sidewalk areas. Streetscaping elements may be adjusted at the time of FDP and during site plan review, and individual Blocks may have slight variations, provided the quality of the streetscape is consistent with that shown on the CDP. Tree planting sites are set forth conceptually on the CDP and may be revised at the time of FDP or site plan approval, subject to UFMD approval.

39. Non-Invasive Plant Materials. Invasive species, as defined in the PFM, shall not be used within the streetscape and landscaped open space areas.

40. Utility Locations. To the extent feasible and in accordance with the Transportation Design Standards, proposed future utilities, including, but not limited to water, sanitary sewer, storm sewer, electricity, gas and cable television lines, may be relocated or installed within the street network, or placed in locations that minimize conflicts with the landscaped open space areas and streetscape elements shown on the CDP and/or FDPs submitted subsequent to approval of this Rezoning. If there is no other cost-effective option as determined by each Applicant for its respective Block, in consultation with DPZ, utilities may be placed within open space or streetscape areas provided that the long-term health of trees and other plantings is ensured by the provision of sufficient soil volume as shown on the CDP and subsequent FDPs, as determined by the UFMD and as set forth above. A preliminary utility plan shall be overlaid on the landscape plan included with each FDP or FDPA filed subsequent to approval of this Rezoning and shall include the location of any utility vaults and maintenance points to stormwater management facilities. Adjustments to the type and location of plantings may be made to avoid conflicts with utilities or for other site engineering considerations. Maintenance access points to stormwater management facilities and utility vaults beneath the streetscape shall be located outside the clear pedestrian walkway zone of the streetscape, where feasible. If the Dominion Virginia Power vaults must be located in the walkway zone, they shall be designed as a lift out panel with the same paving materials as the walkway (subject to the Americans with Disabilities Act ("ADA") requirements), be flush with the walkway, and meet ADA accessibility requirements.

41. Sight Distance and Utility Considerations. If VDOT determines at the time of site plan approval that street tree locations conflict with either the sight distance requirements set forth in the Transportation Design Standards or with utility requirements, and good faith efforts have been made to gain necessary approval of such conflicting trees by making minor adjustments to their locations or by removing their lower branches but VDOT, the County or the applicable utility company does not approve such street tree locations, then such tree(s) may be deleted and replaced at an alternative location on the subject Block, so long as the alternative location is coordinated with the UFMD.

42. Streetscape Furnishings and Materials and Lighting. High quality and unified streetscape materials shall be provided within the public realm for each Block in substantial conformance with the CDP and may include, but not be limited to, decorative concrete, unit pavers, seat walls, tree space edging, lighting, traffic signal poles, benches, trash receptacles and other hardscape elements. A "Streetscape Furnishing and Materials Plan" in substantial conformance with that shown on the CDP shall be submitted in conjunction with all FDPs submitted subsequent to approval of this Rezoning. These plans shall include general product information and approximate locations of furnishings and materials to be located in the streetscape between the building face and the curb, and in other public realm open spaces. Although minor variations may occur within Blocks, materials, furnishings, and lighting along public streets shall generally be compatible in Blocks A through F and consistent with any streetscape design approved by the Tysons Partnership, but shall not be subject to approval by the Tysons Partnership. All streetscape lighting shall be energy efficient and generally consistent with the Tysons Urban Design Guidelines. On-site, outdoor and parking garage lighting shall not exceed the limitations in the Outdoor Lighting Standards of Sect. 14-900 of the Zoning Ordinance, as may be amended. The same or similar street lights shall be used consistently throughout the development along public streets and be selected from those listed in the Tysons Urban Design Guidelines, or other lights as may be approved by OCR. All parking lot and building-mounted security lighting shall utilize full cut off fixtures. Recessed lighting shall be directionally shielded to mitigate the impact on adjacent properties.

43. Parking Structure Lighting. The Applicant shall utilize full cut-off, low-intensity or recessed lighting directionally shielded to mitigate the impact on adjacent residences for any lighting along the perimeter of an above-ground parking garage not constructed of solid walls. Such lighting shall comply with the requirements of Article 14 of the Zoning Ordinance.

44. Construction Lighting. During construction, the Applicant shall attempt to reduce glare from OSHA, VOSHA, VUSBA and local ordinance required superstructure lighting to the extent possible without violating aforementioned laws, regulations or policies.

45. Signage and Wayfinding. Signage for the Subject Property shall be provided in accordance with the requirements of Article 12 of the Zoning Ordinance or a Comprehensive Sign Plan ("CSP") may be sought for one or more Blocks of Arbor Row. The placement of traffic control signage on public streets shall be coordinated with, and subject to, VDOT review and approval. Wayfinding signage and elements shall be coordinated with the Tysons Partnership to facilitate a consistent wayfinding and signage system throughout the applicable

planning district, but shall not be subject to approval by the Tysons Partnership. Wayfinding signage shall provide direction to locations of prominent attractions, parks, cultural arts destinations, and other public amenities.

46. Maintenance of the Pedestrian Realm. Elements to be maintained within the pedestrian realm include all publicly-owned areas and all privately-owned spaces (with or without public access easements) that are between the curb and the building façade (the "Pedestrian Realm"). The Administrative Group (the "AG," as defined in Proffer 77) shall be responsible on behalf of the Applicant for obtaining all required VDOT permits related to the Pedestrian Realm, for maintaining the Pedestrian Realm in good repair and in compliance with the ADA, and for replacing in kind, as needed, all Pedestrian Realm elements located within or abutting public street right-of-way. For any publicly-owned portions of the Pedestrian Realm, the AG shall enter into the appropriate agreement, in a form approved by the Office of the County Attorney, with the County (or other applicable public entity) to permit the AG to perform such maintenance. Neither the Applicant nor the AG shall be required to repair or restore any elements of the Pedestrian Realm within publicly-owned areas that are damaged by public employees, contractors, or permittees that are not acting under the direct authority of the Applicant or the AG. An alternative maintenance agreement, such as a Business Improvement District, may be entered into upon written agreement of both the County and the Applicant and/or AG without the requirement for a PCA. Maintenance commitments within the Pedestrian Realm shall include but are not limited to:

- A. All plantings including trees, shrubs, perennials, and annuals;
- B. All associated irrigation elements;
- C. All hard surfaces, including but not limited to paving and retaining walls;
- D. All streetscape furnishings including benches and bike racks;
- E. All lighting fixtures;
- F. All special drainage features, such as LID facilities;
- G. Snow removal, including from on-street parking spaces on private access drives;
- H. Trash recycling and litter removal;
- I. Leaf removal;
- J. Any sign posts, traffic signal poles, pedestrian signal poles, mast arms, signal heads and control boxes that are not VDOT standard devices; and

- K. All urban park amenities in the development including horticultural care, maintenance of all water features, irrigation, lighting, furnishings, paving, recreation courts and features, and art.

As determined at the time of FDP approval, where the final streetscape design cannot be fully implemented during certain phases of development, the Applicant shall provide interim streetscape improvements as described in these Proffers.

47. Ownership of the Pedestrian Realm. Portions of the Pedestrian Realm will be dedicated in fee simple to the County of Fairfax (or equivalent government body or agency), as shown on the CDP, subject to the following conditions:

- A. The County and/or VDOT shall permit all stormwater and other facilities to be constructed and maintained as shown on the CDP, subject to the Applicant accepting maintenance responsibilities for such facilities;
- B. The County and/or VDOT shall permit the Applicant to use security-related features, including, but not limited to, bollards, that are constructed within streetscape areas and shown on an approved FDP;
- C. The Applicant through the AG shall continue to maintain the Pedestrian Realm facilities as described in these Proffers; and
- D. Dedication of any portions of the Pedestrian Realm intended to be publicly-owned shall occur concurrently with dedication of the adjacent roadway.

48. Public Access for the Pedestrian Realm. For areas within the Pedestrian Realm that are privately owned, the Applicant shall dedicate public access easements, in a form approved by the Office of the County Attorney. In areas where a portion of the Pedestrian Realm is within the public right-of-way, a public access easement shall be placed across the privately-owned area identified as the building zone. In areas where the Pedestrian Realm is entirely under private ownership, the public access easement shall be for the areas of the landscape amenity panel and the sidewalk zone.

49. Phased Conditions and Standards. Redevelopment of the individual Blocks may result in various phased conditions associated with the Subject Property. As part of the FDP review for each Block, specific phased conditions shall be identified, generally as set forth in these Proffers and on the Phasing Sheets for the subject Block and the area immediately abutting it and shall ensure such conditions provide safe and reasonable pedestrian connections and vehicular access/circulation. Phased conditions shall comply with the following general standards:

- A. Application of a temporary screening system (which may be removable) to the façades of above grade garages in Blocks B, C and D that will be

interior when later phases are complete, but that are exposed at phase lines for more than a one-year period. This screening system shall be applied to all levels above grade and shall be composed of an architecturally designed system that may reflect basic architectural lines of the permanent façades and/or vegetation or other techniques, and shall partially obscure the garage view from outside the garage until the next phase is constructed. As may be appropriate, the specific temporary screening system to be utilized for each building shall be determined at the time of FDP approval and depicted on the FDP. Other alternate temporary garage screening and the use of banners and/or temporary art works as a part of the screening system may be approved at the time of FDP approval;

- B. Grading and seeding of areas on the Subject Property where existing improvements are removed to accommodate a portion of the development shown for the subject Block, not used for construction staging and not scheduled to commence construction within 12 months; and
- C. Provision of attractive temporary construction fencing, which may include public art, signage or way-finding elements. Signage shall comply with Article 12 of the Zoning Ordinance or alternatively in accordance with an approved Comprehensive Sign Plan.

#### **OFF-SITE PUBLIC FACILITIES AND ATHLETIC FIELDS**

50. Public Facilities and Athletic Fields Contributions. To address the Comprehensive Plan's recommendations regarding the provision of public facilities and athletic fields in Tysons Corner, the following shall be provided:

- A. Dedication of Off-Site Parcel. The approximately eight (8) acres of land identified as Fairfax County Tax Map Parcel 29-2-((15))-B2 (the "Park/School/Athletic Fields Parcel") shall be dedicated, in fee simple, to the Board for public park, athletic fields, public elementary school and/or similar or related public uses. This dedication shall occur within one hundred twenty (120) days after completion of construction of the improvements described in subparagraphs B., C. and D. below, as evidenced by the release of the bonds posted with approval of the Athletic Field Site Plan described in Proffer 51.
- B. Athletic Fields. Prior to June 30, 2015 as described in Proffer 51, or such later date as may be determined by the Zoning Administrator pursuant to Proffer 108, the following two athletic fields and related support facilities (collectively, the "Athletic Fields Improvements") shall be constructed on the Park/School/Athletic Fields Parcel generally as shown on the plan

entitled "Playing Fields and Public Facilities Exhibit," dated September 10, 2012 and attached to these Proffers as **Exhibit A**:

- i. Installation of one synthetic turf, multi-purpose athletic field of approximately 390 feet by 220 feet ("Field One"), which includes fifteen (15) feet wide overruns, two player benches (no bleachers), field striping, two goals, and field lighting (which shall qualify for a minimum of one (1) athletic field credit). Field construction and lighting shall be consistent with Fairfax County Park Authority ("FCPA") standards at the time of construction. Field design and location shall be determined in coordination with the FCPA Synthetic Turf Fields Manager.
- ii. Installation of one synthetic turf, multi-purpose athletic field of approximately 180 feet by 255 feet ("Field Two"), which includes fifteen (15) feet wide overruns and two player benches (no bleachers), field striping, two goals, and field lighting (which shall qualify for a minimum of one-half (½) athletic field credit). Field construction and lighting shall be consistent with FCPA standards at the time of construction. Field design and location shall be determined in coordination with the FCPA Synthetic Turf Fields Manager. It is anticipated that Field Two may be removed in the future by the County and/or the Fairfax County School Board (the "School Board") at such time as this portion of the Park/School/Athletic Fields Parcel may be needed for school purposes.
- iii. The installation and construction of Field One and Field Two will qualify for a minimum total of one and one-half (1½) athletic field credits as defined in the Tysons Urban Center Plan. One-half (½) athletic field credit shall meet the approximate one-half (½) athletic field requirement anticipated for this Rezoning. The remaining one (1) athletic field credit shall be available to the Applicant to meet the partial anticipated athletic field credit requirement for the property included in pending rezoning applications RZ 2011-PR-010 and RZ 2011-PR-011. The support facilities identified on **Exhibit A**, which include the picnic shelter and seating facilities, a paved parking area for approximately 46 cars, and an internal trail system, shall be installed with construction of the athletic fields. An eight (8) foot wide concrete trail, with associated street tree landscaping, also shall be installed along the Jones Branch Drive frontage of the Park/School/Athletic Fields Parcel with construction of the athletic fields. These frontage improvements shall not include any road widening, on-

street parking, streetscape or other road frontage improvements along Jones Branch Drive. The improvements to the Park/School/Athletic Fields Parcel as shown on Exhibit A shall be located so as not to preclude the future construction by others of (i) road widening, on-street parking and streetscape improvements along public streets, including Jones Branch Drive, and (ii) a future grid street within the thirty-five (35) foot wide right-of-way identified on Exhibit A as "AREA FOR POTENTIAL FUTURE ROAD EXTENSION." Subject to approval of the appropriate waivers, the Applicant shall have no obligation, in connection with the site plans for the Athletic Fields Improvements, the Stream Trail Improvements (as defined below) and the Stream Restoration Improvements (as defined below) or otherwise, to design and/or construct, or contribute funds toward construction, of such public street frontage improvements or such future grid street.

- C. Construction of Stream Valley Trail. Prior to June 30, 2015 as described in Proffer 51 below, or such later date as may be determined by the Zoning Administrator pursuant to Proffer 108, an asphalt trail, approximately eight (8) feet in width, with a bridge where the trail crosses the stream (collectively, the "Stream Trail Improvements"), shall be constructed through the stream valley corridor on the Park/School/Athletic Fields Parcel from Westpark Drive northward to connect to the portion of the Park/School/Athletic Fields Parcel on which the athletic fields are located, generally as shown on Exhibit A. The location of this trail shall be coordinated with the Park Authority Trails Coordinator. The Applicant shall work with the Park Authority Trails Coordinator to design the location of this trail connection to reduce the slope to the extent practicable while meeting the applicable standards of the PFM and mitigating unnecessary impacts on the scenic quality of this trail connection.
- D. Outfall and Stream Bank Restoration. Prior to June 30, 2015, as described in Proffer 51 below, the Applicant shall construct, at a total cost not to exceed \$500,000, the following: (a) improvements to the storm drain outfall, such as plunge pools, from the culvert under Westpark Drive extending approximately 125 linear feet downstream from the outfall, including stream channel treatment along the existing public sanitary sewer main that crosses the main stream channel, but not to include any alteration nor treatment of the sanitary sewer main pipe itself other than repair of any damage, if any, to the pipe that may be caused by construction of the Stream Restoration Improvements, and (b) such other stream bank stabilization improvements on the Park/School/Athletic Fields Parcel and within the limits of the existing Storm Drainage and

Floodplain Easement (the "Existing Storm Drainage Easement") granted on Fairfax County Tax Map Parcel 29-4-((7))-A4 ("Parcel A4") by the deed recorded in Deed Book 21514, at page 76 among the land records in the Clerk's Office of the Circuit Court of Fairfax County, as approved by DPWES and the U.S. Army Corps of Engineers, in consultation with the Park Authority (together (a) and (b) are referred to collectively as the "Stream Restoration Improvements"). The Stream Restoration Improvements shall be constructed in strict accordance with plans approved by DPWES, in its sole discretion, based on, among other things, all applicable regulatory requirements and DPWES's design preferences. In addition to the Stream Restoration Improvements, the Applicant shall, subject to issuance of necessary permits and if a Condition Assessment Report ("CAR") has been issued and the CAR has not already been corrected, dredge Pond D located on Fairfax County Tax Map Parcel 29-4-((7))-B to the original design depth and limits of construction pursuant to SD-1213-1 and -2, based on a bathymetric study conducted before and immediately after such dredging (the "Pond D Dredging"). In such event, the Pond D Dredging shall be done in conjunction with the improvements to the storm drain outfall described in subparagraph (a) above. The Pond D Dredging shall not include any improvements upstream of Pond D nor any upgrades to the existing dam, riser, inlets or other structural elements, but will include repairs required under the existing maintenance agreement for Pond D and to address damage, if any, that may be caused by the Pond D Dredging. The Stream Restoration Improvements located on Parcel A4 within the Existing Storm Drainage Easement shall be subject to provision of any additional off-site easements that may be required and appropriate indemnification by others without payment of consideration by the Applicant for such easements and indemnification. The Stream Restoration Improvements shall not include any design or construction work to be performed to the existing structures on Parcel A4. If necessary easements and the indemnification by others cannot be obtained or if the Stream Restoration Improvements are projected, based on two qualified bids at the time of 75% plan design, to exceed the \$500,000 limitation, then the Applicant will work with DPWES, the Park Authority and the U.S. Army Corps of Engineers to adjust the design and/or nature of the improvements described in subparagraph (b) so the work can be performed entirely on the Park/School/Athletic Fields Parcel, if the necessary easements and indemnification by others cannot be obtained, and so the total cost of the Stream Restoration Improvements will not exceed the \$500,000 limitation unless a funding source for the amount in excess of the \$500,000 limitation, up to an additional twenty percent (20%) cost, is identified in which case such work in excess of \$500,000, up to the additional twenty percent (20%) cost, shall also be performed by the Applicant. The Applicant shall provide to the County reasonable

documentation, such as invoices and receipts, to document the actual amount of funds spent on the Stream Restoration Improvements. If any of the Stream Restoration Improvements are provided as part of the public improvements plan described in Proffer 62.A., the cost of such improvements shall count toward the \$500,000 limit on the commitments in this paragraph. Construction of all or any portion of the Stream Restoration Improvements shall not be a condition to the site plan approval for Block A, Block E or Block F, unless all or a portion of the Stream Restoration Improvements are required for the subject Block to meet the minimum adequate outfall requirements of the PFM. If all or any portion of the Stream Restoration Improvements are required for Block A, Block E or Block F to meet the minimum adequate outfall requirements of the PFM, such portion of the Stream Restoration Improvements may be a condition of site plan approval for such Block in accordance with the PFM requirements, and the costs to construct such portion of the Stream Restoration Improvements shall not be counted toward the \$500,000 limit on the commitments in this paragraph.

- E. Contribution to Costs of Potential Future Park/School/Athletic Fields Parcel Improvements. A total contribution of \$600,000 shall be made to the Board solely for the purposes of designing the elementary school facilities on the Park/School/Athletic Fields Parcel, maintaining, repairing and replacing the athletic fields and/or trails constructed on the Park/School/Athletic Fields Parcel and/or for stream improvements or restoration activities. The amount of this contribution shall escalate as provided in Proffer 111. Such contribution shall be made in three (3) equal payments to the County of \$200,000 each, to be made prior to issuance of the building permit for each of the three buildings to be constructed on Block B and Block C.

51. Construction of the Athletic Fields and Related Facilities. Not later than one hundred-twenty (120) days after the approval of this Rezoning, the Applicant shall submit to the County one or more site plans for the Athletic Fields Improvements, the Stream Trail Improvements and the Stream Restoration Improvements. The Applicant reserves the right to (i) submit a separate site plan for the Stream Trail Improvements and the Stream Restoration Improvements or to identify that work as a separate phase from the Athletic Fields Improvements, and (ii) subdivide the Park/School/Athletic Fields Parcel in order to dedicate the portion on which the Athletic Fields Improvements are located and obtain bond release for that portion while work continues on the remainder of the Park/School/Athletic Fields Parcel to complete the Stream Trail Improvements and the Stream Restoration Improvements. The Applicant shall diligently pursue site plan approval for all the proffered improvements to the Park/School/Athletic Fields Parcel. Upon approval of the site plans, the Applicant shall diligently pursue construction of all improvements and complete construction by June 30, 2015, or such later date as may be determined by the Zoning Administrator pursuant to Proffer 108.

No approvals, including without limitation, site plan, demolition permit, grading permit, building permit, foundation permit, sheeting/shoring permits, RUPs and/or Non-RUPs, shall be withheld for Block A, Block E and/or Block F after the June 30, 2015 deadline if construction of the Athletic Fields Improvements, the Stream Trail Improvements and/or the Stream Restoration Improvements (including the Pond D Dredging if applicable) has not been completed as long as the Applicant has (i) submitted the site plan for the Athletic Fields Improvements (the "Athletic Fields Site Plan") and either has obtained approval of the Athletic Fields Site Plan or is diligently pursuing approval of the Athletic Fields Site Plan consistent with the Designate Plan Examiner (DPE) process, (ii) escrowed with the County funds that, based on a budget approved by DPWES, will be sufficient to complete construction of the Athletic Fields Improvements, the Stream Trail Improvements and the Stream Restoration Improvements, when combined with any bonds posted with any approved site plans for such improvements, if any, and (iii) delivered a deed for the dedication of the Park/School/Athletic Fields Parcel to the County, in escrow, to be released from escrow and recorded upon completion of construction of the Athletic Fields Improvements, the Stream Trail Improvements and the Stream Restoration Improvements and release of the bonds posted for the site plans for such improvements. Irrespective of the foregoing, approvals as set forth above may be withheld for Blocks B, C and D if such improvements have not been completed prior to the deadline, or such later date as may be determined by the Zoning Administrator pursuant to Proffer 108.

52. Contingencies for Early Removal of Field Two. In the event Field Two (i) is not constructed because the School Board notifies the Applicant prior to the date the Applicant has posted the bonds for the Athletic Field Site Plan that it intends to proceed with development of such area for a new school, or (ii) is constructed, but is removed on a date that is less than ten (10) years from the date construction of Field Two is completed (the "Field Two Completion Date") because the School Board proceeds with construction of a new school, then the Applicant shall escrow, pursuant to a Future Construction Agreement for the approved Athletic Field Site Plan, an amount equal to \$5.50 per square foot of playing surface for Field One to be used exclusively for the removal and replacement of the original artificial playing surface installed on Field One. The total value of the escrow amount is estimated to be \$450,000.00. The Future Construction Escrow can be in the form of a letter of credit or surety bond consistent with the applicable provisions of the PFM. If either a letter of credit or a surety bond is provided, DPWES shall notify the Applicant at least six (6) months prior to the need for payment of the cost to resurface the playing area on Field One, and the Applicant shall replace the letter of credit or surety bond, as applicable, with a cash escrow to be used by the County to pay to resurface Field One.

53. Public Schools Cash Contribution. In addition to the off-site dedication of the Park/School/Athletic Fields Parcel, prior to the issuance of the first RUP for each building in Block A and the first RUP for the building in Block E, the amount of \$9,378.00 per student for students projected to be generated by this redevelopment shall be contributed to the Board for transfer to Fairfax County Public Schools ("FCPS") to be utilized for capital improvements and capacity enhancements at the schools that students generated by these residential buildings will attend. This contribution shall be based on student yield ratios of 0.047, 0.013 and 0.027 per unit

for elementary, middle and high school, respectively. Such contribution shall be made at the time of issuance of the first RUP for each residential building.

54. Adjustments to Schools Cash Contribution. If, prior to site plan approval for the respective residential buildings, the County should increase the accepted ratio of students per subject multi-family unit or the amount of the contribution per student, the amount of the contribution shall be increased for that building to reflect the current ratio and/or contribution. If the County should decrease the ratio or contribution amount, the amount of the contribution shall be decreased to reflect the current ratio and/or contribution.

### **ON-SITE PARKS AND ACTIVE RECREATION FACILITIES**

55. Publicly-Accessible Parks by Block. Parks, plazas, terraces, trails and open space shown on the CDP, while retained in private ownership, shall be subject to public access easements which shall reserve to each Applicant, as applicable, the right, as to its respective Block, to reasonably restrict access for limited times for special events, security, maintenance and repairs and/or safety purposes. Each Applicant may establish reasonable rules and regulations for the public areas on its respective Block provided, however, that such public areas generally are open on a daily basis from dawn until dusk (10:00 p.m. if lighted). At the time of site plan submission for the first building in Block C, the Applicant shall enter into discussions with FCPA regarding opportunities for public programming within the large Urban Park within Block C. Any such agreement between the Applicant and FCPA shall be memorialized in a "Memorandum of Understanding." Special amenity features generally described below shall be depicted on the FDP for Block C, and shall be designed to enhance and complement land uses and may include both hardscape and softscape elements generally as depicted on the CDP. Parks and other publicly-accessible recreation areas shall be provided on each respective Block as generally shown on the Phasing Sheets and Urban Parks Plan on the CDP at the time of issuance of the first RUP or Non-RUP for new construction on that Block and as further described below, with more specific details provided on the FDP for each Block:

- A. Block A. As shown conceptually on the CDP, a minimum of two (2) publicly-accessible "Pocket Parks" (one "B" type and one "C" type as defined on the CDP) shall be provided within Block A prior to issuance of the first RUP for the second building within Block A. These two pocket parks shall offer passive recreation opportunities. Pocket Park C is "Resource Protection Area" and, as such, shall remain in undisturbed open space with no improvements as set forth on the CDP and in these Proffers. Pocket Park B located along the southern property boundary will be designed to enhance the adjacent open space and trail areas and provide connectivity and seating as appropriate, subject to availability of appropriate off-site easements without payment by the Applicant of monetary consideration for the conveyance of such easements. The Applicant shall make diligent efforts to obtain such off-site easements to enable such trail connection and, if requested, shall provide documentation

demonstrating same. However, in the event the necessary off-site easements cannot be acquired, then the cost to construct the portion of such trail from the Subject Property boundary to the existing or planned location of the off-site trail shall be escrowed with the County by the Applicant for the Block adjacent to such trail connection, and upon payment of such escrow the obligation to construct this trail connection shall be satisfied.

- B. Block C. As shown conceptually on the CDP, an approximately 2.96-acre, publicly accessible Civic Plaza/Common Green ("Urban Park"), including sport courts, terraces and grand staircase areas shall be provided within Block C prior to issuance of the first Non-RUP for the last of the two buildings in Block C. Design of the Urban Park shall be depicted at the time of FDP for Block C, but at a minimum shall include a large lawn, shade structure, walkways, seating areas, terraces, sculpture or other public art and active recreation. An elevator shall be provided and other design features as determined by the Applicant shall be located in or around the associated urban plaza, subject to final engineering. In addition, one tennis court, one basketball court and a children's playground shall be provided prior to issuance of the first Non-RUP for the second building in Block C, on the top level of the garage for use by the public, as shown conceptually on the CDP. These facilities shall be privately owned and maintained, but they shall be available for public use and subject to a public access easement, which shall reserve to the Applicant the right to restrict access as described in this Proffer 55. Two trail connections to the existing off-site asphalt trail shall be provided within Block C prior to issuance of the first Non-RUP for Block C, subject to appropriate off-site easements being provided by others to the Applicant without payment by the Applicant of monetary consideration for the conveyance of such easements. The Applicant shall make diligent efforts to obtain such off-site easements to enable such trail connection and, if requested, shall provide documentation demonstrating same. However, in the event the necessary off-site easements cannot be acquired, then the cost to construct the portion of such trail from the Subject Property boundary to the existing off-site asphalt trail shall be escrowed with the County by the Applicant for the Block adjacent to such trail connection, and upon payment of such escrow the obligation to construct this trail connection shall be satisfied.
- C. Block E. As shown conceptually on the CDP, one publicly-accessible "Pocket Park" ("A" type) that is a minimum of one-half acre in size shall be provided prior to issuance of the first RUP or Non-RUP for Block E. This pocket park shall provide important connectivity between Blocks D and F and shall be designed to create an intimate passive park that

includes seating, special plantings, plaza area, lawn space and special paving areas activating the space and linking it to the adjacent residential use. One trail connection to the existing off-site asphalt trail, including ramps and stairways depicted on the CDP, shall be provided within Block E prior to issuance of the first RUP or Non-RUP for Block E, subject to appropriate off-site easements being provided by others to the Applicant without payment by the Applicant of monetary consideration for the conveyance of such easements. The Applicant shall make diligent efforts to obtain such off-site easements to enable such trail connection and, if requested, shall provide documentation demonstrating same. However, in the event the necessary off-site easements cannot be acquired, then the cost to construct the portion of such trail from the Subject Property boundary to the existing off-site asphalt trail shall be escrowed with the County by the Applicant for the Block adjacent to such trail connection, and upon payment of such escrow the obligation to construct this trail connection shall be satisfied.

- D. Block F. As shown conceptually on the CDP, publicly-accessible "Pocket Parks" totaling a minimum of 10,000 square feet shall be provided prior to the first Non-RUP for Block F. The smaller pocket park along Westpark Drive on the east side of the proposed office building may be designed as a hardscape plaza and include a combination of special hardscape paving, benches, shade trees and/or seating areas. The larger pocket park on the western side of the office building shall be designed to facilitate pedestrian connectivity to the publicly-accessible park space and trail connections to the west and may include, but shall not be limited to, such design elements as special paving, benches, potential outdoor retail seating, shade trees and/or an architectural feature.

56. Urban Parks Tabulations. The publicly-accessible open space tabulations set forth on the CDP shall be achieved when redevelopment of the entire Subject Property is complete, in accordance with Par. 2 of Sect. 16-403 of the Zoning Ordinance.

57. Private Active Recreation Facilities. Pursuant to Par. 2 of Sect. 6-508 and of Sect. 16-404 of the Zoning Ordinance, at the time of site plan approval, a minimum of \$1,700.00 per market-rate and workforce residential dwelling unit shall be provided for each residential building within Block A and Block E toward construction of developed on-site recreation facilities (privately and publicly-accessible) for each respective building. The balance of any funds not expended for the applicable residential building, if any as determined by DPWES, shall be contributed or may be escrowed, prior to issuance of the RUP for the final unit in such building, for provision of future on-site recreation facilities (private and publicly accessible) within Block C, and, if no such facilities are identified, then such residual funds shall be contributed to the FCPA for the provision of recreation facilities within Tysons Corner. The specific facilities and amenities noted below (which are separate from and in addition to the

required provision of publicly accessible park space) shall be provided within each residential Block and may be shared between two or more residential buildings for the use and enjoyment of the residents of those buildings, as determined at the time of FDP approval. Private recreation facilities shall include, but not be limited to:

- A. Private exterior courtyard areas, which may be located on the top deck of the parking garages and/or residential buildings or in open areas and may include pool facilities, informal seating areas, landscaping, hardscape areas and/or passive recreation areas; and
- B. An interior fitness center furnished with exercise equipment that may include, but is not limited to, stationary bikes, treadmills, weight machines and free weights, but not necessarily staffed.

### **PEDESTRIAN CIRCULATION**

58. Pedestrian Connectivity. Pedestrian connectivity shall be provided throughout the Subject Property generally consistent with the concepts shown on the "Pedestrian Circulation Plan" through the use of elements such as wayfinding signage, terraces, sidewalks, trails and lawn areas. As depicted on the CDP, certain connections to open space, trails and/or sidewalks located off-site on the adjacent Tysons II property to the south (Tax Map Parcel 29-4-((10))-30), Parcel B2 to the north (Tax Map Parcel 29-2-((15))-B2) and the Avalon Crescent apartments to the west (Tax Map Parcel 29-4-((7))-B) shall be provided at the time of issuance of the first RUP or Non-RUP for the Block adjacent to such connection, subject to appropriate off-site easements being provided by others to the Applicant without payment by the Applicant of monetary consideration for the conveyance of such easements. The Applicant shall make diligent efforts to obtain necessary off-site easements and, if requested, shall provide documentation demonstrating same. In the event the necessary off-site easements cannot be acquired, then the cost to construct the portion of such trail from the Subject Property boundary to the existing or planned location of the off-site trail shall be escrowed with the County, and upon payment of such escrow the obligation to construct this trail connection shall be satisfied. If approved by VDOT, a pedestrian crosswalk and trail connection across to off-site Fairfax County Tax Map Parcel 29-4-((7))-1A2 shall be provided which connects Arbor Row to the stream valley trail on the Parks/School/Athletic Fields Parcel, as referenced above.

### **TRANSPORTATION**

59. Definition of Construct. The term "construct" as used with respect to the road improvements referenced in these Proffers shall mean such road improvement is open for use by the traveling public whether or not such improvement has been accepted by VDOT for maintenance.

60. VDOT Acceptance and Dedication. The Applicant shall diligently pursue acceptance by VDOT of all public street and related improvements to be maintained by VDOT,

as more specifically described in these Proffers. All right-of-way proposed to be accepted by VDOT into the state system for maintenance shall be dedicated to the Board in fee simple.

61. Grid of Streets. With redevelopment of each Block, the frontage improvements along the existing public streets abutting such Block and the portions located on such Block of the proposed grid of streets, generally depicted on the CDP and the Phasing Sheets, shall be constructed and open for use by the public. The Applicant shall use good faith commercially reasonable efforts to construct such frontage improvements along Westpark Drive and Westbranch Drive as shown on Sheet C8.4 of the CDP pursuant to an approved public improvement plan ("PI Plan"). The functional classification of the roadways comprising the grid of streets on the Subject Property is summarized below:

Street	Classification
Westpark Drive	Avenue (Public)
Westbranch Drive	Collector Street (Public)
Jones Branch Drive Extended	Local Street (Private; see <u>Proffer 62.C.</u> )
Private Access Roads or Streets	Service Streets (Private)

62. On-Site Road Improvements. All on-site public road improvements, on-site Private Streets and on-site Private Access Roads together with appropriate/required pavement transitions shall be constructed with the redevelopment of the individual Blocks as reflected on the Phasing Sheets, subject to VDOT approval, and prior to issuance of the first initial RUP or Non-RUP for the first new building to be constructed on the applicable Block. Such on-site road improvements shall generally consist of the following:

- A. Westpark Drive Frontage Improvements. Westpark Drive shall be constructed as generally reflected on the "Roadway Striping and Marking Plans," the "Road Cross Sections," and the Phasing Sheets in the CDP. The extent, final design and timing of these ultimate improvements shall be provided in conjunction with the redevelopment of each individual Block and determined at the time of site plan approval for that Block, unless constructed as a single public improvement project as described in Proffer 61. At a minimum, however, the frontage improvements for each respective Block shall be constructed prior to issuance of the first initial RUP or Non-RUP for the first new building to be constructed on that Block, except along the Block F frontage as qualified below.

With regard to Block F, the ultimate improvements of Westpark Drive, as described more fully above, shall be constructed along the Westpark Drive

frontage of Block F prior to issuance of the first initial non-RUP for the new building on Block F. However, if the utility equipment associated with the I-495 Express Lane improvements that is currently installed in the Block F frontage (and scheduled for removal by VDOT by September 30, 2012) is not relocated prior to approval of the first site plan for the new building on Block F, then (i) the section of Westpark Drive along the Block F frontage will be constructed in an interim configuration as depicted on CDP Sheet C8.1; (ii) funds shall be escrowed with DPWES for the costs to construct the ultimate improvements of Westpark Drive along the frontage of Block F as described above and reflected on the CDP (exclusive of utility relocations related to the I-495 Express Lane improvements); and (iii) right-of-way and ancillary and reasonable easements along the Block F frontage necessary for the construction by others of the ultimate section of Westpark Drive along the Block F frontage shall also be provided.

- i. Entrances to Westpark Drive. If Block E redevelops prior to Block F, the existing entrance from Westpark Drive to the northwest corner of Block F shall be retained until the construction of the redevelopment of Block F is completed, notwithstanding VDOT's approval of a new entrance from Westpark Drive to Block E, if VDOT permits the two entrances to be open and in operation simultaneously. In the event VDOT refuses to allow the two entrances to remain open at the same time, the existing entrance on Block F in the vicinity of the common property line between Block E and F shall be closed and the new permanent entrance from Westpark Drive to Block E will be constructed as shown on the Phasing Sheets. If Block F redevelops prior to Block E, the ultimate condition of the entrance from Westpark Drive into Block E shall be constructed, as shown on the CDP.
- B. Westbranch Drive Frontage Improvements. At the time of site plan approval for the first new building on Block A or Block B, whichever occurs first, or in conjunction with the PI Plan described in Proffer 61, the improvements to Westbranch Drive along the Block A frontage and the Block B frontage, respectively, will be constructed, as approved by VDOT and in general accordance with the, the "Roadway Striping and Marking Plans," the "Road Cross Sections," and consistent with the Phasing Sheets. The final design and extent of the improvements to Westbranch Drive as generally described and referenced above shall be determined at the time of the first site plan approval for Block A or Block B, whichever occurs first.

- C. Jones Branch Drive Extended. An extension of Jones Branch Drive ("Jones Branch Drive Extended") from Westpark Drive south as shown on the CDP and in general accordance with the "Roadway Striping and Marking Plans," the "Road Cross Sections" and consistent with the Phasing Sheets shall be constructed with the redevelopment of Block D or Block E, whichever occurs first, unless previously constructed by others. Jones Branch Drive Extended will be designed and constructed in accordance with current public street standards applicable to a "local street," but it will be privately maintained until such time as the adjacent property to the south redevelops, such section of Jones Branch Drive Extended connects to a public street to the south, and VDOT accepts such section of Jones Branch Drive Extended into the State system for maintenance. The right-of-way area for Jones Branch Drive Extended as shown on the CDP shall be reserved for future dedication for public street purposes if and when VDOT is prepared to accept such section of Jones Branch Drive Extended into the State system for maintenance as described in the preceding sentence. The final design of Jones Branch Drive Extended as generally described and referenced above shall be determined at the time of the first site plan approval for either Block D or Block E, whichever occurs first.
- D. Private Streets and Access Roads. With the redevelopment of each Block, the private streets and access roads as shown on the CDP and on the Phasing Sheets, shall be constructed (unless already constructed by others) and open for use by the public and a public access easement in a form acceptable to the County Attorney shall be granted.

63. Off-Site Transportation Improvements. Coincident with the submission of the first site plan for a new building on either Block B or Block C, the Applicant shall submit to VDOT and DPWES, a plan for a 275-foot extension of the southbound left turn bay on International Drive at Westpark Drive within existing rights-of-way and subject to VDOT approval and permitting. This off-site improvement shall be constructed prior to the issuance of the first initial Non-RUP for the second building to be constructed on either of Block B or Block C. Because Arbor Row generates only 23% of the southbound left-turn traffic (as set forth in the TIA), at least 77% of the construction costs associated with this improvement shall be credited against the Applicant's contribution to the Tysons Area Road Fund as evidenced by construction invoices.

64. VDOT Approval. All public street improvements proposed herein shall be subject to VDOT approval, and shall be in general conformance with the Transportation Design Standards, as amended, subject to any permitted modifications and/or waivers that may be granted.

65. Westpark Drive/Westbranch Drive Traffic Signal. A warrant study for the installation of a new traffic signal at the Westpark Drive/Westbranch Drive intersection shall be

submitted in accordance with the Phasing Sheets and within twelve (12) months after the issuance of the first initial RUP or Non-RUP for the first new building constructed on Block A, Block B or Block C. If a signal is deemed warranted by VDOT at that time after having reviewed the warrant study and approved for installation, then such traffic signal, including pedestrian enhancements as may be required by VDOT, shall be designed, equipped and installed by the Applicant.

In the event the signal proposed for the Westpark Drive/Westbranch Drive intersection is deemed not warranted within twelve (12) months after the issuance of the first Non-RUP or RUP for the first building in Block A, Block B, or Block C, then the Applicant shall submit a second warrant study within twelve (12) months after the issuance of the first initial RUP or Non-RUP for the fifth (5<sup>th</sup>) building on the Subject Property. If warranted by VDOT at that time after having reviewed the warrant study, the Applicant shall design, equip and install such signal including pedestrian enhancements as required by VDOT.

In the event the signal proposed for Westpark Drive/Westbranch Drive is not deemed warranted after the 5<sup>th</sup> building, then the Applicant shall conduct a third and final warrant study within twelve (12) months after the first initial RUP or Non-RUP for the last new building on the Subject Property. If warranted by VDOT at that time after having reviewed the warrant study, the Applicant shall design, equip and install such signal including pedestrian enhancements as may be required by VDOT. If not warranted with the last building on the Subject Property then the Applicant's obligation to construct or in any manner pay for such signal is deemed null and void and this Proffer of no further effect.

66. Jones Branch Drive/Westbranch Drive Traffic Signal. A warrant study for installation of a new traffic signal at the Jones Branch Drive/Westbranch Drive intersection shall be submitted within twelve (12) months after the issuance of the first RUP or Non-RUP for the fifth new building constructed on the Subject Property. If a signal is deemed warranted by VDOT and approved for installation at this intersection, then such traffic signal, including pedestrian enhancements as may be required by VDOT, shall be designed, equipped and installed by the Applicant for such fifth new building.

In the event that the signal proposed for the Jones Branch Drive/Westbranch Drive intersection is deemed not warranted within twelve (12) months after the issuance of the first Non-RUP or RUP for the fifth new building constructed on the Subject Property, then the Applicant shall conduct a second warrant study within twelve (12) months after the first initial RUP or Non-RUP for the last building on the Subject Property. If warranted by VDOT at that time after having reviewed the warrant study, the Applicant shall design, equip and install such signal including pedestrian enhancements as required by VDOT. If not warranted with the last building on the Subject Property, then the Applicant's obligation to construct or in any manner pay for such signal is deemed null and void and this Proffer of no further effect.

67. Traffic Signal Modifications. Concurrent with the submission of the first site plan for Block D or Block E, a signal modification plan for the Jones Branch Drive Extended intersection with Westpark Drive shall be submitted to VDOT and such signal modifications,

including pedestrian enhancements, as may be required by VDOT and in accordance with the Phasing Sheets, shall be completed prior to opening Jones Branch Drive Extended to traffic.

68. Potential Future Right-Of-Way Vacation Areas. In the event any public street right-of-way that abuts the Subject Property is vacated and/or abandoned subsequent to approval of this Rezoning, such right-of-way area will become zoned to the PTC District pursuant to Sect. 2-203 of the Zoning Ordinance and such right-of-way area may be used, without requiring a PCA, CDPA or FDPA, for utilities and to accommodate sidewalks and streetscape elements consistent with the street sections shown on the CDP and/or with the Tysons Urban Design Guidelines.

69. Pedestrian Enhancements. Any and all crosswalks shown on the CDP and FDPs crossing public streets are conceptual only and subject to VDOT review and approval at site plan.

70. Supplemental Traffic Analyses. At the time of site plan submission for each Block subsequent to approval of this Rezoning, supplemental operational traffic analyses of the points of access to the subject Block shall be provided if required by VDOT. For purposes of this Proffer, such analyses shall only be required if the Block generates more than an additional 100 peak hour directional trips (either inbound or outbound). Such supplemental operational analyses also shall be limited to an assessment of those driveways and/or turn lanes serving the particular Block.

71. Notification Letter. At the time of filing of the first site plan for each of Block A through F, a notification letter shall be sent to the Director of FCDOT. The purpose of this letter is to facilitate coordination with DPWES to ensure site plans are consistent with the Transportation Design Standards.

72. Tysons Road Fund Contributions. At the time of issuance of the first RUP or Non-RUP for each new building on the Subject Property, a contribution shall be made to the Tysons Road Fund in the amount of \$6.44 per square foot of non-residential GFA or \$1,000 per residential unit for which the RUP or Non-RUP is requested. Credits shall be allowed against such contributions for the costs of the qualifying off-site intersection improvements provided pursuant to these Proffers. These payments may be made earlier than required pursuant to this Paragraph.

73. Board-Initiated Service District for Table 7 Improvements. The Applicant will support the creation of a Tysons-wide service district by the Board, on its own initiative, for the sole purpose of providing funds to Fairfax County for the private sector's share of the costs of the Table 7 transportation improvements to serve the Tysons Corner Urban Center.

74. Additional Tysons Road Fund Contributions for Table 7 Improvements. The Applicant shall contribute to the Tysons Road Fund the sum of \$5.63 per square foot for all new non-residential GFA on each respective Block, and \$1,000.00 for each residential unit constructed on the Subject Property. The contribution associated with each building shall be

paid in a lump sum, based on the actual gross floor area of non-residential space and/or the actual number of residential units in the building, with payment to occur prior to the issuance of the first RUP or Non-RUP for each building. This contribution shall not apply to any public-use facilities constructed on the Subject Property. These payments may be made earlier than required pursuant to this paragraph.

75. Congestion Management Plan.

- A. The Applicant shall prepare and implement a construction congestion management plan during construction of each Block or Sub-Block, as appropriate, through its development/construction manager and the TPM (as defined in Proffer 78.F.(i)), so as to provide safe and efficient pedestrian and vehicle circulation at all times on the Subject Property and on the public roadways adjoining the Subject Property (each a "Congestion Management Plan").
- B. Each Congestion Management Plan shall identify anticipated construction entrances, construction staging areas, construction vehicle routes and procedures for coordination with FCDOT and/or VDOT concerning construction material deliveries, lane closures, and/or other construction related activities to minimize disturbance on the surrounding road network.
- C. Each Congestion Management Plan shall also require the Applicant to coordinate its construction activities throughout construction with VDOT and FCDOT.
- D. Such Congestion Management Plans shall be prepared by a qualified professional and submitted in connection with the VDOT permit for construction on the subject Block or Sub-Block. In addition, the TPM shall coordinate any adjustments to the TDM Plan (as defined in Proffer 78) as necessary to address each Congestion Management Plan.

TRANSPORTATION DEMAND MANAGEMENT ("TDM")

76. Tysons Transportation Management Association. The Applicant shall contribute to Fairfax County funds for the establishment of a future transportation management association (the "TMA"), which may be established for the Tysons Corner Urban Center and to which all other Tysons property owners will also contribute.

- A. The Applicant shall make a one-time contribution to the County for the establishment of this future TMA based on a participation rate of \$0.10 per gross square foot of new office uses and \$0.05 per gross square foot of new residential uses to be constructed on the Subject Property.

- B. Twenty-five (25) percent of the total contribution to the TMA shall be paid upon site plan approval of the first new building to be constructed on the Subject Property. The remaining seventy-five percent (75%) of the total contribution shall be paid in three (3) equal installments prior to the issuance of the first RUP or Non-RUP for the first three (3) new buildings, but in any event no later than ten (10) years from the date of rezoning approval.
- C. If subsequent to the approval of this Rezoning, a Tysons Corner Urban Center-wide TMA is approved by FCDOT and established for the purpose of administering TDM programs in the Tysons Corner Urban Center, then the Applicant may, in its sole discretion, join or otherwise become associated with such entity and transfer some or all functions of this TDM Program to the new entity, whereupon this Proffer in whole or in part shall be void and of no further force or effect. Further, if determined by FCDOT that a proactive, private TDM program is no longer necessary, the TDM structure in this Proffer may be rendered null and void in whole or in part without the need for a PCA.
- D. If the TMA has not been established within three (3) years after the approval of this Rezoning, this Proffer shall be null and void with no further effect on the Subject Property. Further, any funds contributed to the TMA would then be returned to the Applicant that paid such funds.

77. TDM Administrative Group. The Applicant shall establish a TDM Administrative Group (the "AG") to fund, implement and administer the transportation demand management program (the "TDM Program") for the Subject Property as described more fully below. The AG shall include, at a minimum, one representative for each of Blocks A through F. Prior to approval of the first site plan for new development on the Subject Property, written evidence shall be provided to FCDOT that the AG has been established.

78. Transportation Demand Management Plan. The proffered elements of the TDM Program as set forth below are more fully described in the Arbor Row Transportation Demand Management Plan prepared by M.J. Wells + Associates, Inc. dated February 22, 2012, as revised through August 31, 2012 (the "TDM Plan"). A copy of the cover sheet and table of contents of the TDM Plan is attached hereto as Exhibit B. It is the intent of this Proffer that the TDM Plan will adapt over time to respond to the changing transportation related circumstances of the Subject Property, the surrounding community and the region, as well as to technological and/or other improvements, all with the objective of meeting the trip reduction goals as set forth in these Proffers. Accordingly, modifications, revisions, and supplements to the TDM Plan as coordinated with FCDOT can be made without the need for a PCA provided that the TDM Plan continues to reflect the proffered elements of the TDM Program as set forth below.

- A. Definitions. For purposes of this Proffer, "Stabilization" shall be deemed to occur one (1) year following issuance of the last initial RUP or Non-

RUP for the final new building to be constructed on the Subject Property. "Pre-stabilization" shall be deemed to occur any time prior to Stabilization.

- B. Trip Reduction Objective. The objective of this TDM Program shall be to reduce the vehicle trips generated by residents and office tenants of the Subject Property (i.e., not including trips from hotel and retail uses), during weekday peak hours associated with the adjacent streets as more fully described in the TDM Plan, by meeting the percentage vehicle trip reductions established by the Comprehensive Plan as set forth below. These trip reduction percentages shall be multiplied by the total number of residential and office vehicle trips that would be expected to be generated by the uses developed on the Subject Property as determined by the application of the ITE Trip Generation rates and/or equations, and the number of trips determined by the product of such equation shall be referred to herein as the "Maximum Trips After Reduction." For purposes of this calculation, the maximum number of dwelling units or the total gross square footage of office uses proposed to be constructed in each building on the Subject Property as determined at the time of site plan approval for each new building shall be applied to the calculation described in the preceding sentence. The target reductions shall be as follows:

<u>Development Levels</u>	<u>Percentage Vehicle Trip Reduction</u>
Up to 65 million sq.ft. of GFA	30%
65 million sq.ft. of GFA	35%
84 million sq.ft. of GFA	40%
90 million sq.ft. of GFA	43%
96 million sq.ft. of GFA	45%
105 million sq.ft. of GFA	48%
113 million sq.ft. of GFA	50%

The trip reduction goals outlined above are predicated on the achievement of specific development levels within the Tysons Corner Urban Center as anticipated in the Comprehensive Plan. Prior to undertaking trip measurements, the AG in coordination with the County shall provide a summary of the then existing development levels in Tysons Corner (based on RUPs and Non-RUPS issued) in order to determine the appropriate vehicle trip reduction goal.

If through an amendment to the Comprehensive Plan, the Board should subsequently adopt a goal for trip reductions that is lower than that

committed to in this Proffer, then the provisions of this Proffer shall be adjusted accordingly without requiring a PCA.

- C. TDM Program Components – Arbor Row-Wide. The TDM Program shall include, but not necessarily be limited to, the following Arbor Row-wide components, each of which are more fully described in the TDM Plan:
- (i) Arbor Row-wide TDM Program Management.
  - (ii) TDM Program Branding.
  - (iii) Transportation Program Web Site.
  - (iv) Promotion of Real Time Transit Information.
  - (v) Arbor Row Transportation Access Guide.
  - (vi) Live/work/play marketing to new tenants.
  - (vii) Pedestrian/bicycle facilities.
  - (viii) Monitoring/reporting.
  - (ix) Sustainable annual funding.
  - (x) Parking Management.
- D. TDM Program Components – Residential. The TDM Program shall include, but not necessarily be limited to the following residential components, each of which is more fully described in the TDM Plan.
- (i) Residential Transportation Coordinators.
  - (ii) Try Transit Campaign for new residents.
- E. TDM Program Components – Office. The TDM Program shall include, but not necessarily be limited to the following office components, each of which is more fully described in the TDM Plan.
- (i) Office Transportation Coordinators.
  - (ii) Coordinated Outreach and Marketing Activities with TDM Providers.
  - (iii) Try Transit Campaign for new employees.

- F. Process of Implementation. The TDM Program shall be implemented as follows, provided that modifications, revisions, and supplements to the implementation process as set forth herein as coordinated with FCDOT can be made without requiring a PCA.
- (i) TDM Program Manager. If not previously appointed, the AG shall appoint and continuously employ, or cause to be employed, a TDM Program Manager ("TPM") for Arbor Row. If not previously appointed, the TPM shall be appointed by the AG no later than sixty (60) days after the issuance of the first building permit for the first new building to be constructed on the Subject Property. The TPM duties may be part of other duties associated with the appointee. The AG shall notify FCDOT and the District Supervisor in writing within 10 days of the appointment of the TPM. Thereafter the AG shall do the same within ten (10) days of any change in such appointment.
  - (ii) Annual Report and Budget. The TPM shall prepare and submit to FCDOT an initial TDM Work Plan ("TDMWP") and Annual Budget no later than 180 days after issuance of the first building permit for the first new building on the Subject Property. Every calendar year thereafter but no later than March 15<sup>th</sup>, the TPM shall submit an Annual Report, which may revise the Annual Budget in order to incorporate any new construction on the Subject Property. The Annual Report shall include, at a minimum:
    - a. Details as to the components of the TDM program that will be put into action that year;
    - b. Any revisions to the budget needed to implement the program for the coming calendar year;
    - c. A summary of the then existing development levels in the Tysons Corner Urban Center as well as within Arbor Row;
    - d. A determination of the applicable Maximum Trips After Reduction for the Subject Property;
    - e. Provision of the specific details associated with the monitoring and reporting requirements of the TDM program in accordance with the TDM plan; and
    - f. Submission of the results of any Person Surveys and Vehicular Traffic Counts conducted on the Subject Property.

The Annual Report and Budget shall be reviewed by FCDOT. If FCDOT has not responded with any comments within sixty (60) days after submission, then the Annual Report and Budget shall be deemed approved and the program elements shall be implemented. If FCDOT responds with comments on the Annual Report and Budget, then the TPM will meet with FCDOT staff within fifteen (15) days of receipt of the County's comments. Thereafter, but in any event, no later than thirty (30) days after the meeting, the TPM shall submit such revisions to the program and/or budget as discussed and agreed to with FCDOT and begin implementation of the approved program and fund the approved TDM Budget. Thereafter, the TPM, in conjunction with each Annual Report summarizing the results of the TDM Program to be submitted no later than March 15th (the "Annual Report"), shall update the Annual Report and TDM Budget for each succeeding calendar year, modify or enhance program elements and establish a budget to cover the costs of implementation of the program for such year. The expected annual amounts of the TDM Budget are further described in Section 7.0 of the TDM Plan.

- (iii) TDM Account. If not previously established, the AG, through the TPM, shall establish a separate interest bearing account with a bank or other financial institution qualified to do business in Virginia (the "TDM Account") within 30 days after approval of the TDM Budget. All interest earned on the principal shall remain in the TDM Account and shall be used by the TPM for TDM purposes. The TDM Account shall be funded by the AG, through the TPM. The documents that establish the AG shall provide that the TDM Account shall not be eliminated as a line item in the governing budget and that funds in the TDM Account shall not be utilized for purposes other than to fund TDM strategies/programs and/or specific infrastructure needs as may be approved in consultation with FCDOT.

Funding of the TDM Account shall be in accordance with the budget for the TDM Program elements to be implemented in any given year. In no event shall the TDM Budget exceed \$122,500 (this amount shall be adjusted annually from the date of rezoning approval for the Subject Property (the "Base Year")) and shall be adjusted on each anniversary thereafter of the Base Year in accordance with Proffer 111. The TPM shall provide written documentation to FCDOT demonstrating the establishment of the TDM Account within ten (10) days of its establishment. The TDM Account shall be replenished annually thereafter following the

establishment of each year's TDM Budget. The TDM Account shall be managed by the TPM.

- (iv) TDM Remedy Fund. At the same time the TPM creates and funds the TDM Account, the TPM shall establish a separate interest bearing account (referred to as the "TDM Remedy Fund") with a bank or other financial institution qualified to do business in Virginia. Funding of the TDM Remedy Fund shall be made one time on a building by building basis at the rate of \$0.40 per gross square foot of new office uses and \$0.30 per gross square foot of new residential uses on the Subject Property. Funding shall be provided by the building owners prior to the issuance of the first initial RUP or Non-RUP for each applicable new building. This amount shall be adjusted annually from the date of rezoning approval of the Subject Property (the "Base Year") and shall be adjusted on each anniversary thereafter of the Base Year as permitted by VA. Code Ann. Section 15.2-2303.3. Funds from the TDM Remedy Fund shall be drawn upon only for purposes of immediate need for TDM funding and may be drawn on prior to any TDM Budget adjustments as may be required.
- (v) TDM Incentive Fund. The "TDM Incentive Fund" is an account into which the building owners, through the TPM, shall deposit contributions to fund a multimodal incentive program for initial purchasers/lessees within Arbor Row. Such contributions shall be made one time on a building by building basis at the rate of \$0.02 per gross square foot of new office or residential uses to be constructed on the Subject Property and provided prior to the issuance of the first RUP or Non-RUP for each individual building.
- (vi) TDM Penalty Fund. The "TDM Penalty Fund" is an account into which the AG, through the TPM, shall deposit penalty payments as may be required to be paid pursuant to this Proffer for non-attainment of trip reduction goals. The County may withdraw funds from the TDM Penalty Fund for the implementation of additional TDM Program elements/incentives and/or congestion management, first for Arbor Row, then for other TDM-related improvements or programs within Tysons Corner. To secure the AG's obligations to make payments into the TDM Penalty Fund, the AG shall provide the County with a letter of credit or a cash escrow as further described below.

Prior to the issuance of the first RUP or Non-RUP for each new building on the Subject Property, the AG shall:

- a. Establish the TDM Penalty Fund, if not previously established by the TPM, and/or
  - b. Deliver to the County a clean, irrevocable letter of credit issued by a banking institution approved by the County or escrow cash in an interest-bearing account with an escrow agent acceptable to DPWES to secure the AG's obligations to make payments into the TDM Penalty Fund (the "Letter(s) of Credit or Cash Escrow(s)"). The Letter(s) of Credit or Cash Escrow(s) shall be issued in an amount equal to \$0.10 for each square foot of new office GFA or \$0.05 for each square foot of new residential GFA shown on the approved site plan for each new building on the Subject Property. Until the Letter(s) of Credit or Cash Escrow(s) has been posted, the figures in the preceding sentence shall be adjusted annually from the first day of the calendar month following the date on which the first RUP or Non-RUP, as the case may be, for the first new building on the Subject Property has been issued in accordance with Proffer 111, using the date of rezoning approval as the base year. Once the Letter(s) of Credit or Cash Escrow(s) has been posted, there shall be no further adjustments or increases in the amount thereof. The Letter(s) of Credit or Cash Escrow(s) shall name the County as the beneficiary and shall permit partial draws or a full draw. The foregoing stated amount(s) of the Letter(s) of Credit or Cash Escrow(s) shall be reduced by the sum of any and all previous draws under the Letter(s) of Credit or Cash Escrow(s) and payments by the AG (or the TPM) into the TDM Penalty Fund as provided below.
- (vii) Monitoring. The AG shall verify that the proffered trip reduction goals are being met through the completion of Person Surveys, Vehicular Traffic Counts of residential and/or office uses and/or other such methods as may be reviewed and approved by FCDOT. The results of such Person Surveys and Vehicular Traffic Counts shall be provided to FCDOT as part of the annual reporting process. Person Surveys and Vehicular Traffic Counts shall be conducted for the Subject Property beginning one year following issuance of the final initial RUP or Non-RUP for the first new building to be constructed on the Subject Property. Person Surveys shall be conducted every three (3) years and Vehicular Traffic Counts shall be collected annually until the results of three

consecutive annual traffic counts conducted upon Stabilization show that the applicable trip reduction goals for the Subject Property have been met. At such time and notwithstanding Paragraph H below, Person Surveys and Vehicular Traffic Counts shall thereafter be provided every five (5) years. Notwithstanding the aforementioned, at any time prior to or after Stabilization, FCDOT may suspend such Vehicle Traffic Counts and/or Person Surveys if conditions warrant such.

G. Remedies and Penalties.

(i) Pre-Stabilization. If the Maximum Trips After Reduction for the Subject Property is exceeded as evidenced by the Vehicular Traffic Counts outlined above, then the TPM shall meet and coordinate with FCDOT to address, develop and implement such remedial measures as may be identified in the TDM Plan and annual TDMWP.

a. Such remedial measures shall be funded by the Remedy Fund, as may be necessary, and based on the expenditure program that follows:

<b>Maximum Trips Exceeded</b>	<b>Remedy Expenditure</b>
Up to 1%	No Remedy needed
1.1% to 3%	1% of Remedy fund
3.1% to 6%	2% of Remedy Fund
6.1% to 10%	4% of Remedy Fund
Over 10%	8% of Remedy Fund

b. If the results of the Vehicular Traffic Counts conducted during Pre-Stabilization show that the trip reduction goals have been met site-wide for three (3) consecutive years in accordance with the goals outlined on the table below, then a portion of the Remedy Fund as outlined in the same table below shall be released back to the building owner(s) through the AG. The amount released will be relative to the amount contributed by those buildings constructed and occupied at the time of Vehicular Traffic Counts. Any funds remaining in the Remedy Fund after such release will be carried over to the next consecutive three (3) year period.

<b>Up to 65,000,000 Square Feet of GFA in Tysons</b>	
<b>Meet or Exceed Trip Goal for 3 Years By:</b>	<b>Cumulative % Remedy Fund Returned</b>
<b>Meet Goal</b>	<b>30%</b>
5% - 10%	50%
10.1% - 15%	65%
15.1% - 18%	80%
18.1 - 20%	90%
<b>Reach Final Goal</b>	<b>100%</b>

<b>65-84,000,000 Square Feet of GFA in Tysons</b>	
<b>Meet or Exceed Trip Goal for 3 Years By:</b>	<b>Cumulative % Remedy Fund Returned</b>
<b>Meet Goal</b>	<b>50%</b>
5% - 10%	65%
10.1% - 13%	80%
13.1% - 15%	90%
<b>Reach Final Goal</b>	<b>100%</b>

<b>84-90,000,000 Square Feet of GFA in Tysons</b>	
<b>Meet or Exceed Trip Goal for 3 Years By:</b>	<b>Cumulative % Remedy Fund Returned</b>
<b>Meet Goal</b>	<b>65%</b>
5% - 8%	80%
8.1% - 10%	90%
<b>Reach Final Goal</b>	<b>100%</b>

<b>90-96,000,000 Square Feet of GFA in Tysons</b>	
<b>Meet or Exceed Trip Goal for 3 Years By:</b>	<b>Cumulative % Remedy Fund Returned</b>
<b>Meet Goal</b>	<b>80%</b>
5% - 8%	90%
<b>Reach Final Goal</b>	<b>100%</b>

<b>96-113,000,000 Square Feet of GFA in Tysons</b>	
<b>Meet or Exceed Trip Goal for 3 Years By:</b>	<b>Cumulative % Remedy Fund Returned</b>
<b>Meet Goal</b>	<b>90%</b>
5%	100%

<b>113,000,000+ Square Feet of GFA in Tysons</b>	
<b>Meet or Exceed Trip Goal for 3 Years By:</b>	<b>Cumulative % Remedy Fund Returned</b>
<b>Meet Goal</b>	<b>100%</b>

c. The Applicant, through the TPM, is not required to replenish the TDM Remedy Fund at any time. Any cash left in the Remedy Fund will be released to the AG for final distribution to the owners once three consecutive annual Vehicular Traffic Counts conducted after Stabilization show that the trip reduction goals have been met.

(ii) Following Stabilization.

a. *Remedies.* If the TDM Program monitoring, as evidenced by the Vehicular Traffic Counts outlined above, reveals that the Maximum Trips After Reduction for the Subject Property is exceeded, then the TPM shall meet and coordinate with FCDOT to address, develop and implement such remedial measures as may be identified in the TDM Plan and Annual Report and funded by the Remedy Fund (if available) as may be necessary, commensurate with the

extent of deviation from the Maximum Trips After Reduction goal as set forth in accordance with the expenditure schedule outlined above.

- b. If the results of the Vehicular Traffic Counts conducted upon Stabilization show that the trip reduction goals have been met site-wide for three (3) consecutive years in accordance with the table above, then any remaining Remedy Funds shall be released back to the building owner(s) through the AG.
- c. *Penalties.* If despite the implementation of remedial efforts, the applicable Maximum Trips After Reduction (based on the existing and approved development levels in the Tysons Corner Urban Center as described in Proffer 78.B.) are still exceeded after three (3) consecutive years, then, in addition to addressing further remedial measures as set forth in this Proffer, the TPM shall be assessed a penalty according to the following:

Exceeded Trip Goals	Penalty
Less than 1%	No Penalty Due
3.1% to 6%	10% of Penalty Fund
6.1% to 10%	15% of Penalty Fund
Over 10%	20% of Penalty Fund

- (iii) The AG through the TPM shall make the payments required by this Proffer into the TDM Penalty Fund upon written demand by the County, and the County shall be authorized to withdraw the amounts on deposit in the TDM Penalty Fund. If the AG fails to make the required penalty payment to the TDM Penalty Fund within thirty (30) days after written demand, the County shall have the ability to withdraw the penalty amount directly from the Letter(s) of Credit or Cash Escrow(s).
- (iv) The maximum amount of penalties associated with the Subject Property, and the maximum amount the AG shall ever be required to pay pursuant to the penalty provisions of this Proffer, including prior to and after Stabilization, shall not in the aggregate exceed the amount of the Letter(s) of Credit or Cash Escrow(s) determined and computed pursuant to the provisions of the above Proffer. There is no requirement to replenish the TDM Penalty Fund at any time. The Letter(s) of Credit and/or any cash left in the Cash Escrow(s) (either Penalty and/or Remedy Funds) shall be released

to the AG once three (3) consecutive counts conducted upon Stabilization show that the Maximum Trips After Reduction have not been exceeded.

- H. Additional Trip Counts. If an Annual Report indicates that a change has occurred that is significant enough to reasonably call into question whether the applicable vehicle trip reduction goals are continuing to be met, then FCDOT may require the TPM to conduct additional Vehicular Traffic Counts (pursuant to the methodology set forth in the TDM Plan) within 90 days to determine whether in fact such objectives are being met. If any such Vehicular Traffic Counts demonstrate that the applicable vehicle trip reduction goals are not being met, then the TPM shall meet with FCDOT to review the TDM strategies in place and to develop modifications to the TDM Plan to address the surplus of trips.
- I. Review of Trip Reduction Goals. At any time and concurrent with remedial actions and/or the payment of penalties as outlined in Proffer 78.G., the AG may request that FCDOT review the vehicle trip reduction goals established for the Subject Property and set a revised lower goal for the Subject Property consistent with the results of such surveys and vehicular traffic counts provided for by this Proffer. In the event a revised lower goal is established for the Subject Property, the Maximum Trips After Reduction shall be revised accordingly for the subsequent review period without the need for a PCA.
- J. Continuing Implementation. The AG through the TPM shall bear sole responsibility for continuing implementation of the TDM Program and compliance with this Proffer. The AG through the TPM shall continue to administer the TDM Program in the ordinary course in accordance with this Proffer including submission of Annual Reports.
- K. Notice to Owners. All owners of the Subject Property shall be advised of the TDM Program set forth in this Proffer. The then current owner shall advise all successor owners and/or developers of their funding obligations pursuant to the requirements of this Proffer prior to purchase, and the requirements of the TDM Program, including the annual contribution to the TDM Program (as provided herein), shall be included in all initial and subsequent purchase documents.
- L. Enforcement. If the TPM fails to timely submit a report to FCDOT as required by this Proffer, the TPM will have sixty (60) days within which to cure such violation. If after such sixty (60) day period the TPM has not submitted the delinquent report, then the AG shall be subject to a penalty of \$100 per day not to exceed \$36,500 for any one incident. Such penalty shall be payable to Fairfax County to be used for multimodal, transit,

transportation, or congestion management improvements within the vicinity of the Subject Property, or with the TPM's approval, for other TDM-related improvements or programs within Tysons Corner.

79. Transportation Demand Management for Retail/Hotel Uses. As provided in the above Proffer, certain components of the TDM Plan are applicable to and will benefit the proposed Retail/Hotel Uses on the Subject Property. Therefore, the Applicant will provide an additional TDM program tailored to specifically serve the Retail/Hotel Uses (the "Retail/Hotel TDM Program"). In no event will penalties be assessed against any Retail/Hotel Uses, which may be established on the Subject Property.

- A. Goals of the Retail/Hotel TDM Program. Because tenants of the retail stores and hotels and their employees work hours that are atypical of the standard work day, these tenants and their employees do not necessarily travel to and from the Subject Property during peak hours. Given this, the Retail/Hotel TDM Program shall encourage retail tenants, hotel guests and the retail/hotel employees to utilize transit, carpools, walking, biking and other non-Single Occupancy Vehicle ("non-SOV") modes of transportation to travel to and from the Subject Property rather than focusing on the specific trip reductions during the weekday AM or PM peak hours.
- B. Components of the Retail/Hotel TDM Program. The Retail/Hotel TDM Program shall include, at a minimum, the components applicable to the Subject Property that are described in this Proffer and the additional components provided below. These additional components may be subsequently amended by mutual agreement between the Applicant and FCDOT. All amendments to the components of the Retail/Hotel TDM Program contained in this Proffer shall be approved by FCDOT and will not require a PCA. The Retail/Hotel TDM Program components are further described in the TDM Plan.
- C. Employee/Tenant Meetings. The TPM shall hold, at a minimum, an annual TDM meeting with the Retail store tenants and Hotel Managers, and their respective employees, to review the available transit options, changes in transit service and other relevant transit-related topics. Based on these meetings, the TPM shall work with Fairfax County to consider changes to the relevant services, such as changes to bus schedules, if such changes would provide better service to the Subject Property tenants and their employees.
- D. Regional TDM Programs. The TPM shall make information available to retail store tenants, hotel guests and the retail/hotel employees about regional TDM programs that promote alternative commuting options.

This shall include information on vanpools, carpools, guaranteed ride home and other programs offered by organizations in the Washington, D.C. Metropolitan Area.

- E. Retail/Hotel TDM Program Participation Outreach. The TPM shall endeavor in good faith to encourage participation by Retail store tenants and hotel management in the Retail/Hotel TDM Program, including the encouragement of a financial participation by such tenants through their direct offering of transit benefit programs and transit incentives to their employees. Actions taken by the TPM and property management in furtherance of this objective may include dissemination of information to, and solicitation of participation from, the tenant's in-store management and executives or officers at their headquarters offices, at appropriate intervals. The TPM shall include a report to the County with respect to the activities described in the TDM Proffer as part of the Annual Report to be filed with the County. This report shall include detailed accounts of the outreach efforts and the feedback and response from the tenants.

80. Existing or Interim Arbor Row Office Uses. Certain components of the TDM Plan are applicable to and would benefit not only the existing office or interim uses on the Subject Property but potential interim uses as well. The TPM shall make available information on those components to any existing occupied office and/or interim uses which remain or are established on Blocks A through F or any established interim uses. Such uses shall not, however, be subject to monitoring nor will penalties be assessed against those existing office or interim uses. Beginning with the first September following the issuance of a building permit for any new building on Blocks A through F, the subsequent Annual Report shall be expanded to include those new office or residential uses.

81. Intelligent Transportation Systems. To optimize safe and efficient travel in Tysons Corner, the Applicant shall incorporate and maintain a system that provides pertinent traffic and transit information that allows users to make informed travel decisions. This information shall be provided at initial occupancy of each building. The delivery of this information shall be made convenient for building occupants and visitors, such as via computer, cell phone, monitors, or similar technology. Such devices shall provide, but not be limited to, information on the following:

- A. Traffic conditions, road hazards, construction work zones, and road detours.
- B. Arrival times and delays on Metrorail, Tysons Circulator, and area bus routes.
- C. Real time parking conditions and guidance to current on-site parking vacancies, if available.

- D. Bus stops pre-wired for real-time arrivals/departures information, if available.

The Applicant shall work with FCDOT and/or the Tysons Partnership to identify sources and facilitate electronic transmittal of data. Furthermore, the Applicant shall participate in efforts to implement any future dynamic traffic management program for the Tysons area.

### **BICYCLE FACILITIES**

82. **Bicycle Parking and Storage.** Bicycle racks, bike lockers, and/or bike storage areas shall be provided on each Block, with the specific amounts and locations determined at the time of FDP and finalized with site plan approval in consultation with the FCDOT Bicycle Coordinator. Bicycle racks located outside of buildings and parking garages shall be inverted U-style racks or other design approved by FCDOT. The total number of bike parking/storage spaces provided for all Blocks shall be generally consistent with the Fairfax County Policy and Guidelines for Bicycle Parking for each building or group of buildings, as determined at the time of FDP approval. Signage shall be posted on the exterior side of buildings closest to entrances to bike parking/storage space to indicate bike parking/storage.

83. **Bicycle Lanes.** In combination with the street and streetscape improvements identified in these Proffers, pavement and striping for on-street bicycle lanes along the Westpark Drive frontage of each respective Block and a temporary bicycle lane along the corresponding westbound frontage of Westpark Drive across from such Block, shall be provided as depicted on the CDP with the final dimension determined at the time of FDP approval. In addition, on Westbranch Drive a dedicated bicycle lane shall be provided between Westpark Drive and Tysons Boulevard in the southbound (uphill) direction only. The timing and installation of bicycle lane striping shall be subject to VDOT approval.

### **PARKING**

84. **Parking Requirements.** Parking on the Subject Property shall be provided in accordance with the parking requirements for the PTC District set forth in Sect. 6-509 and Article 11 of the Zoning Ordinance, and as shown on the CDP. Tandem and valet parking shall be permitted and, subject to Board approval, shall count toward parking requirements. Tandem parking spaces may be used for residential units with two cars and in office and hotel buildings where spaces are assigned by building management. The exact number of parking spaces to be provided for each Block shall be refined with approval of the FDP and determined at the time of site plan approval based on the specific uses of each Block. If changes in the mix of uses or unit types result in parking greater than that anticipated on the CDP, the additional parking spaces shall be accommodated within the proposed parking garages, so long as the maximum height and footprints of the parking garages do not increase from that shown on the CDP. Parking at revised ratios may be provided, as may be permitted by a future amendment to the Zoning Ordinance. Optional use of revised ratios shall not require a PCA, CDPA or FDPA, provided

there is no increase in the size or height of above-grade parking garages beyond minor adjustments to what is shown on the CDP.

85. On-Street Parking Spaces on Private Streets. On-street parking may be provided on the private streets to meet the parking requirements of the Zoning Ordinance, so long as such spaces are striped and meet the dimension requirements of the PFM, subject to receiving approval of any necessary waivers and/or modifications, if any. Parking on private streets may be restricted through appropriate signage or such other means as determined appropriate by the Applicant as to their respective Blocks, and on-street parking spaces along any private streets and future public streets prior to dedication, that otherwise are not required to satisfy the parking requirements may be used as temporary or short term parking, car-sharing parking and/or similar uses.

86. On-Street Parking Spaces on Public Streets. On-street parking spaces along the public street frontages associated with each respective Block may be constructed as generally shown on the CDP and as may be adjusted at the time of FDP approval. If requested by the County and/or VDOT, signs shall be installed that restrict the use of those public on-street parking spaces. Public on-street parking spaces would be in addition to the total number of required parking spaces to be provided for each Block. Notwithstanding the notes on the CDP, the designation and/or restriction of on-street parking spaces, including the location of handicapped spaces along Westpark Drive and Westbranch Drive, shall be determined in consultation with VDOT and FCDOT at the time of site plan approval for each respective Block.

87. Parking Restrictions. Based on tenant requirements, vehicular access and travel between the parking garages on Blocks B and C may be restricted by the Applicant, so long as Block C can maintain access through the Block B garage to Westbranch Drive. The Block D parking garage will not be connected with adjacent parking garages on other Blocks but will connect to the building on Block D. Block A may have separate parking garages for Sub-Blocks A-1 and A-2 that are not connected. All Blocks may provide gated/restricted parking within the parking garages on the respective Blocks. If gates are provided in any of the Block A through Block F parking garages, then such gates should be located to provide sufficient stacking capacity within the parking garage to prevent vehicles from stacking onto public roads.

88. Temporary Trees on Interim Surface Parking Lots. Existing surface parking lots may be used for interim parking prior to replacement with parking garages or buildings and, in the event that such parking areas are not being used for construction parking or staging or remain undeveloped (except for parking) for more than eighteen (18) months, then temporary street trees shall be planted in existing grass areas along the perimeter of such lots at a minimum size of 2.0 inches in caliper approximately every 50 feet, to the extent feasible as determined by UFMD based on existing conditions and utility easements. This interim street tree planting shall not be required to meet the minimum planting width/area standard for permanent street trees, subject to Board approval. No interior parking lot landscaping shall be required nor provided for these interim surface lots, subject to the Board's approval of a waiver.

89. Unbundled Parking for Residential Uses. All for-sale residential units must be offered exclusive of parking (i.e., at a separate cost). All leases for residential units shall be offered exclusive of parking.

90. Paid Parking for Non-Residential Uses. The Applicant may charge for parking on their respective Blocks, on a per-space basis, at rates that the Applicant deems to be market-competitive. At its sole option, the Applicant may elect to charge for parking within some or all of the parking decks associated with commercial Blocks and on portions of the street network that are privately owned.

### **AFFORDABLE/WORKFORCE HOUSING**

91. Affordable Dwelling Units. If required by the provisions of Part 8 of Article 2 of the Zoning Ordinance, Affordable Dwelling Units ("ADUs") shall be provided for Block A and/or Block E, as applicable, pursuant to such provisions unless modified by the ADU Advisory Board.

92. Workforce Dwelling Units. For-sale and/or rental housing units shall be provided within residential buildings in accordance with the Board's Tysons Corner Urban Center Workforce Dwelling Unit Administrative Policy Guidelines dated June 22, 2010. Workforce Dwelling Units ("WDUs") shall be provided such that the total number of ADUs, if any, plus the total number of WDUs results in twenty percent (20%) of the total residential units constructed on Block A and Block E, respectively. The 20% applies to the total number of dwelling units to be constructed on the subject site, respectively; however, any units created with workforce housing bonus floor area shall be excluded from the 20% WDU calculation (e.g., if 500 total units are to be constructed, 84 WDUs/ADUs would be required, based on the calculation of  $500/1.20 = 417$  base units  $\times .20 = 84$  WDUs/ADUs). If ADUs are provided in any residential building, both the ADUs and the ADU bonus units shall be deducted from the total number of dwelling units on which the WDU calculation is based.

- A. The WDUs generated by each residential building shall be provided within such building; however, the WDUs may be consolidated into one or more buildings on a Block, and thereby increase the number of WDUs in one or more buildings beyond twenty percent (20%) with a corresponding decrease in the number of WDUs in the other buildings. The WDUs in each building, if any, shall have a bedroom mix roughly proportional to that provided in the market rate units in such building. Additionally, in the event that parking spaces are offered to be made available for lease to individual market rate dwelling units, at least one (1) parking space shall be made available for lease by each ADU and/or WDU in the subject Block.
- B. Notwithstanding the foregoing, should the Board's policies related to WDUs in Tysons Corner be amended, the Applicant reserves the right, in

their sole discretion as to their respective Blocks, to opt into the new policies, in part or in whole, without the need for a PCA or CDPA and, if an Applicant so opts into any such new policies, the provisions of this Proffer which relate to the new policies of the Board which the Applicant has elected to opt into shall no longer be effective. Furthermore, the Applicant reserves the right as to their respective Blocks to enter into a separate binding written agreement with the appropriate County agency as to the terms and conditions of the administration of the WDUs. Such an agreement shall be on terms mutually acceptable to the Applicant and the County and may occur any time after the approval of this Rezoning. Neither the Board nor the County shall be obligated to execute such an agreement. If such an agreement is executed by all applicable parties, then the WDUs shall be administered solely in accordance with such agreement and the provisions of this Proffer as it applies to WDUs shall become null and void. Such an agreement and any modifications thereto, or an appropriate memorandum thereof, shall be recorded in the land records of the County.

93. Office and Hotel Contributions toward Affordable/Workforce Housing in Tysons Corner. One of the following two options may be chosen by the Applicant for non-residential uses' contributions toward the provision of affordable and/or workforce housing within Tysons Corner. This contribution shall be made to the Board, be deposited in a specific fund to be used solely for this purpose within Tysons Corner and shall be payable prior to the issuance of the initial Non-RUP for each new non-residential building on each respective Block, excluding retail/services uses and public uses. The contributions shall consist of either (i) a one-time contribution of \$3.00 for each square foot of office or hotel GFA, excluding retail/services uses and public uses, or (ii) an annual contribution of \$0.25 for each square foot of non-residential GFA, excluding retail/services uses and public uses and continuing for a total of sixteen (16) years.

### **STORMWATER MANAGEMENT**

94. Stormwater Management. Stormwater management (SWM) measures for the Subject Property shall be designed with the goal of protecting the downstream receiving waters in the Tysons Corner area from further degradation while providing sufficient controls to proportionately improve the condition of such receiving waters. Stormwater detention and Best Management Practices (BMPs) shall be provided in an appropriate system, including but not limited to, underground detention vaults, LID facilities, infiltration trenches, and existing off-site stormwater management facilities as generally set forth on the CDP (collectively, the "SWM Facilities"). The specific SWM Facilities shall be identified at the time of FDP approval and subsequent site plan approval, as may be approved by DPWES. Each FDP shall include the possible locations and preliminary design of the SWM Facilities, including the access points to underground vaults. For the purposes of this Proffer, references to "current LEED requirements" shall be defined as the version of LEED under which each building is anticipated to attain

certification. At the time of each FDP submission, calculations shall be provided showing the proposed volume reductions for the subject Block, and the Applicant shall work cooperatively with DPWES and DPZ to ensure that the target reuse volume identified on the FDP is captured and the first inch of rainfall for the subject Block is retained or reused to the maximum extent practicable. This requirement may be met on an individual Block basis or based upon the total area of the Subject Property.

- A. The SWM Facilities shall be designed to accommodate not just the pre-developed (existing) peak release rates for the subject Block, but also strive to preserve and/or improve the pre-developed (existing) runoff volumes as contemplated within current LEED requirements, depending on the existing impervious condition. Stormwater management plans for each Block shall achieve at a minimum the stormwater management design credits for LEED (provided such LEED stormwater credit does not include a mandatory drawdown requirement that conflicts with other aspects of this Proffer) and retain on-site and/or seek to reuse the first inch of rainfall to the extent practicable during final design of each building in such Block, per the calculations provided on the CDP. While it is anticipated that compliance with the Comprehensive Plan goal of retaining and/or reusing the first one inch will be determined by the retention credits for the stormwater control measures provided on the CDP and the FDPs, the Applicant reserves the right to utilize any combination of LID (existing and future) measures to meet this goal, subject to the review and approval of DPWES at the time of site plan, so long as the changes do not affect the grid of streets, the general location of the points of access to each Block, the general location of the buildings, the build-to lines, the minimum amount and general location of publicly-accessible park areas as may be applicable for each Block and the general quality and character of the streetscape along the public and private streets within and abutting the Subject Property and as otherwise specified in these Proffers.
- B. Site plans for each Block shall make use of certain LID techniques that will aid in runoff volume reduction and/or promote stormwater reuse throughout the Subject Property. LID techniques may include, but not be limited to, green roofs, tree box filters, pervious hardscapes/streetscapes, bioretention, vegetated swales, infiltration, and stormwater reuse for landscape irrigation and air conditioning unit cooling, as determined by the Applicant for their respective Blocks, in their sole discretion.
- C. At the time of each site plan submission, calculations shall be provided showing the proposed volume reductions for the subject Block, and the Applicant shall work cooperatively with DPWES and DPZ to ensure that the target reuse volume identified on the FDP is captured to the maximum

extent practicable. This requirement may be met on an individual Block basis or based upon the total area of the Subject Property.

#### **INTERIOR NOISE ATTENUATION FOR RESIDENTIAL AND HOTEL USES**

95. **Residential and Hotel Interior Noise Level.** The Applicant shall reduce the interior DNL to no more 45 dBA for residential and hotel buildings on the Subject Property. At the time of building plan application for the full shell building permit for each residential or hotel building, the Applicant shall submit to the Chief of the Environment and Development Review Branch of DPZ (the "E&D Chief"), for approval, and to DPWES, for information only, an acoustical study prepared by a qualified acoustical consultant (the "Indoor Noise Study") addressing indoor noise levels, including proposed noise attenuation measures and proposed materials to ensure compliance with the interior DNL limit of 45 dBA. The Applicant shall not obtain full-shell building permits until the E&D Chief has approved the applicable Indoor Noise Study, provided that a failure by the E&D Chief to review and respond to the Applicant within 60 days of receipt of the Indoor Noise Study shall be deemed approval of such study.

#### **EQC, RPA AND TREE PRESERVATION WITHIN SUB-BLOCK A-1**

96. **Environmental Quality Corridor ("EQC") Boundary.** The EQC boundary shall be delineated and appropriately labeled on the site plan and is inclusive within the Resource Protection Area boundary referenced below.

97. **Resource Protection Area ("RPA") Boundary.** Within Sub-Block A-1, the limits of clearing and grading shown along the RPA boundary shall be strictly observed and enforced. With each and every site plan submission that includes Sub-Block A-1, the Phase 1 and 2 Erosion and Sediment ("E&S") control plans and associated narrative shall require the installation of tree protection fencing with signage and super silt fence along the limits of clearing and grading that abut the RPA boundary. The only authorized encroachments into the RPA are those depicted on this plan and set forth in these Proffers, subject to approval of a Water Quality Impact Assessment and those allowed by, or exempt from, the Chesapeake Bay Preservation Ordinance ("CBPO") as approved by DPWES. The Applicant shall be responsible for the means and methods to ensure that building construction does not encroach into the RPA. Any unauthorized encroachment into, or disturbance of, the RPA is considered a violation of the CBPO and is subject to the penalties in Article 9 (violations and penalties) of such Ordinance.

98. **Tree Preservation.** A tree preservation plan and narrative for Sub-Block A-1 shall be submitted as part of the first and all subsequent site plan submissions for Sub-Block A-1. Such tree preservation plan and narrative shall be prepared by a Certified Arborist or a Registered Consulting Arborist, and shall be subject to the review and approval of the UFMD. Such tree preservation plan shall include a tree inventory that identifies the location, species, critical root zone, size, crown spread and condition analysis percentage rating for all individual trees that are located within 25 feet of either side of the limits of clearing and grading, and have trunks 12 inches in diameter and greater (measured at 4½ -feet from the base of the trunk or as

otherwise allowed in the latest edition of the Guide for Plant Appraisal published by the International Society of Arboriculture), whether on-site or off-site or living or dead. Such tree preservation plan shall provide for the preservation of those areas shown for tree preservation, those areas outside of the limits of clearing and grading shown on the CDP and those additional areas in which trees can be preserved as a result of final engineering. Such tree preservation plan and narrative shall include all items specified in PFM Sect. 12-0507 and Sect. 12-0509. Specific tree preservation activities that will maximize the survivability of any tree identified to be preserved, such as: crown pruning, root pruning, mulching, fertilization, and others as necessary, shall be included in the plan.

99. Tree Preservation Walk-Through. In connection with redevelopment of Sub-Block A-1 pursuant to the previous paragraph, the services of a certified arborist or Registered Consulting Arborist shall be retained and the limits of clearing and grading shall be marked with a continuous line of flagging prior to a pre-construction walk-through meeting. During the tree preservation pre-construction walk-through meeting, the certified arborist or landscape architect shall walk the limits of clearing and grading with a UFMD representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation without adversely impacting the buildings and related improvements and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified as dead or dying may be removed as part of the clearing operation. Any tree that is so designated shall be removed using a chain saw, and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions.

100. Limits of Clearing and Grading. Construction on Sub-Block A-1 shall conform with the limits of clearing and grading as shown on the CDP, subject to allowances provided in these Proffers and for the installation of utilities, public improvements (i.e. roads, streetscapes, entrances, sidewalks, degraded soil and slope conditions) and/or trails as determined necessary by the Director of DPWES, as described herein. If it is determined necessary to install utilities and/or trails in areas beyond the limits of clearing and grading for Sub-Block A-1 as shown on the CDP, such utilities and/or trails shall be located in the least disruptive manner necessary as determined by the UFMD. A replanting plan shall be developed and implemented, subject to approval by the UFMD, for any areas on Sub-Block A-1 beyond the limits of clearing and grading that must be disturbed for such trails, utilities, roads or similar uses, if any such areas are identified at the time of site plan, as described herein and in Proffer 97.

101. Tree Protection Fencing. All trees shown to be preserved on the tree preservation plan for Sub-Block A-1 shall be protected by tree protection fencing. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees, shall be erected

at the limits of clearing and grading as shown on the demolition, and phase I & II erosion and sediment control sheets, as may be modified by the "Root Pruning" Proffer below. Tree protection fencing shall be installed after the tree preservation walk-through meeting but prior to any clearing and grading activities, including the demolition of any existing structures. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist, and accomplished in a manner that does not harm existing vegetation that is to be preserved. Three (3) days prior to the commencement of any clearing, grading or demolition activities, but subsequent to the installation of the tree protection devices, the UFMD shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by the UFMD.

102. Root Pruning. Root pruning, as needed to comply with the tree preservation requirements applicable to Sub-Block A-1, shall be performed. All treatments shall be clearly identified, labeled, and detailed on the erosion and sediment control sheets of the site plan submission for Sub-Block A-1. The details for these treatments shall be reviewed and approved by the UFMD, accomplished in a manner that protects affected and adjacent vegetation to be preserved, and may include, but not be limited to the following:

- A. Root pruning shall be done with a trencher or vibratory plow to a depth of 18 inches.
- B. Root pruning shall take place prior to any clearing and grading, or demolition of structures.
- C. Root pruning shall be conducted under the supervision of a certified arborist.
- D. A UFMD representative shall be informed when all root pruning and tree protection fence installation is completed.

103. Tree Appraisal. For Sub-Block A-1 only, the Applicant shall retain a professional arborist with experience in plant appraisal, to determine the replacement value of all trees 12 inches in diameter or greater located within twenty-five (25) feet of the outer limits of disturbance that are shown to be saved on the Tree Preservation Plan. These trees and their value shall be identified on the Tree Preservation Plan at the time of the first submission of the respective site plan(s). The replacement value shall take into consideration the age, size and condition of these trees and shall be determined by the so-called "Trunk Formula Method" contained in the latest edition of the Guide for Plan Appraisal published by the International Society of Arboriculture, subject to review and approval by UFMD.

At the time of the respective site plan approvals, the Applicant shall post a cash bond, a letter of credit payable to the County of Fairfax or a surety bond from a financial institution licensed to do business in Virginia, to ensure preservation and/or replacement of the trees for

which a tree value has been determined in accordance with the paragraph above (the "Bonded Trees") that die or are dying due to unauthorized construction activities. The letter of credit, cash deposit or surety bond shall be equal to 50% of the replacement value of the Bonded Trees. At any time prior to final bond release for the improvements on the Application Property constructed adjacent to the respective tree save areas, should any Bonded Trees die, be removed, or are determined to be dying by UFMD due to unauthorized construction activities, the Applicant shall replace such trees at its expense. The replacement trees shall be a minimum three (3) inch caliper in size, and equivalent species and/or canopy cover as approved by UFMD. In addition to this replacement obligation, the Applicant shall also make a payment equal to the value of any Bonded Tree that is dead or dying or improperly removed due to unauthorized construction activity. This payment shall be determined based on the Trunk Formula Method and paid to a fund established by the County for furtherance of tree preservation objectives. Upon release of the bond for the improvements on the Application Property constructed adjacent to the respective tree save areas, any amount remaining in the tree bonds required by this Proffer shall be returned/released to the Applicant.

104. Demolition of Existing Structures. Any demolition of existing structures and related improvements for Sub-Block A-1 in areas outside of the limits of clearing and grading shown on the CDP for Sub-Block A-1 shall be done by hand without heavy equipment to the extent practicable and conducted in a manner that does not impact individual trees and/or groups of trees that are to be preserved as reviewed and approved by the UFMD.

105. Site Monitoring. During any clearing or tree/vegetation/structure removal within the tree preservation area in Sub-Block A-1, a representative of the Applicant shall be present to monitor the process and ensure that the activities are conducted in accordance with these Proffers and as approved by the UFMD. The services of a certified arborist or Registered Consulting Arborist shall be retained to monitor all construction and demolition work and tree preservation efforts in order to ensure conformance with these Proffers and the UFMD approvals. The monitoring schedule shall be described in the tree preservation plan, and reviewed and approved by the UFMD.

#### MISCELLANEOUS

106. Bird-Friendly Design. At the time of site plan submission for each respective Block, the Applicant for that site plan shall study whether bird-friendly design strategies may be employed to reduce bird injury and death due to in-flight collisions with building and/or building elements. The strategies to be studied should make the building visible to birds in flight and reduce reflections that distract or confuse birds through the use of appropriate glazing treatments or architectural elements, such as using color, texture, opacity, patterns, louvers, screens, interior window treatments, or ultraviolet materials that are visible to birds. In addition, the Applicant shall study whether interior lighting should be reduced and direct lighting which is visible from the exterior should be eliminated to reduce a building's attractiveness to birds flying at night. The Applicant shall describe the results of the studies of such bird-friendly design strategies, and to what extent any of the strategies will be implemented, in a narrative that is provided at the

time of building permit issuance. To the extent strategies are identified, but not implemented, the narrative shall describe the reasons for the exclusion of such strategies.

107. Tree Preservation and Planting Fund Contribution. To promote enhancement of the Fairfax County Tree Canopy through growth of trees on private and public land, the Applicant shall make a one-time, total contribution payable at the time of the first site plan approval in the amount of \$.002 (two tenths of a cent) per square foot of the maximum proposed GFA as stated in Proffer 9 to the Fairfax County Tree Preservation and Planting Fund ("TPPF"). This donation to the TPPF shall supply tree saplings, volunteer support, and information to landowners with which they can enhance tree canopy on their property. Additionally, this donation shall enable educational activities in FCPS, should they choose to participate.

108. Delay. Notwithstanding the foregoing, upon demonstration that, despite diligent efforts or due to factors beyond an Applicant's control, proffered improvements such as, but not limited to, the required transportation, publicly-accessible park areas and athletic fields, trail connections, off-site easements, have been delayed (due to, but not limited to, an inability to secure necessary permission for utility relocations and/or VDOT approval for traffic signals, necessary easements and site plan approval) beyond the timeframes specified, the Zoning Administrator may agree to a later date for completion of such improvements.

109. Tysons Partnership. The Applicant, and their respective successors and assigns, shall become members of the Tysons Partnership or its residential equivalent no later than issuance of the first RUP or Non-RUP for their Block.

110. Metrorail Tax District Buyout for Certain Residential Uses. At least sixty (60) days prior to recording any condominium documents that would change the use of one or more buildings on Block A or Block E from a multi-unit residential real property that is primarily leased or rented to residential tenants or other occupants by an owner who is engaged in such a business which is taxable for purposes of the now existing Phase I Dulles Rail Transportation Improvement District (the "Phase I District"), to a use that is not subject to the Phase I District tax, the Applicant shall provide a written notice to the Director of the Real Estate Division of the Fairfax County Department of Tax Administration advising that the Applicant intends to record such condominium documents for that portion of Block A or Block E, as the case may be. Prior to recording such condominium documents, the Applicant shall pay to the County a sum equal to the then-present value of Phase I District taxes based on the use of that portion of Block A or Block E, as the case may be, prior to becoming subject to the condominium that will be lost as a result of recording such condominium documents, in accordance with a formula approved by the Board.

111. Escalation in Contribution Amounts. All monetary contributions specified in these Proffers shall escalate or de-escalate, as applicable, on a yearly basis from the base month of January 2013 and change effective each January 1 thereafter, as permitted by § 15.2-2303.3 of the Code of Virginia, as amended.

112. Condemnation. To the extent off-site right-of-way and/or easements are required to construct any of the public infrastructure or public improvements described in these Proffers, and the Applicant responsible for such construction has not been able to acquire such right-of-way or easements after documented, reasonable efforts to do so, the obligation of such Applicant to construct such public infrastructure or public improvements for which right-of-way and/or easements are not available shall be contingent upon the Board acquiring such right-of-way and/or easements, at the Applicant's sole expense (meaning that the Applicant shall timely pay, without limitation, the condemnation award, all appraisal and other expert fees, court costs, and attorney's fees associated with such acquisition), through its powers of eminent domain after being requested to do so by such Applicant, in writing. The Applicant's request will include: (i) plans and profiles showing the necessary right-of-way and/or easements to be acquired, including a description of the proposed public infrastructure and/or public improvements to be constructed and the public purpose to be served by such infrastructure and improvements; (ii) an independent third party appraisal of the value of the right-of-way and/or easements to be acquired based on its highest and best use and of all damages and benefits to the residue of the affected property; and (iii) copies of all correspondence between the Applicant and property owner of the right-of-way and/or easements to be acquired, including a good faith offer, in writing, by the Applicant to acquire from such property owner the right-of-way and/or easements for the appraised value. In the event the County elects not to use its power of eminent domain to acquire those off-site rights-of-way and/or easements necessary for construction of any of the public infrastructure or public improvements described in these Proffers, then that Applicant shall escrow the costs of such infrastructure or public improvements with the County for future implementation by FCDOT, VDOT and/or others. No Applicant shall be prevented from obtaining any land use approval (including, without limitation, PCA, CDPA, FDP, FDPA, site plan, subdivision, grading permit, building permit, and Non-RUP and RUP permits) for the Subject Property, nor from commencing construction on the Subject Property, during the pendency of any condemnation proceedings initiated pursuant to this Proffer, nor any deferral of the County's exercise of eminent domain pursuant to this Proffer, provided that all other prerequisites for obtaining such approvals and commencing such construction provided in these Proffers have been met.

113. Successors and Assigns. These Proffers will bind and inure to the benefit of the Applicant and their successors and assigns. Each reference to "Applicant" in these Proffers shall include within its meaning and shall be binding upon the successors in interest and/or the owners from time to time of any portion of the Subject Property during the period of their ownership. Once portions of the Subject Property are sold or otherwise transferred, the associated proffers become the obligation of the purchaser or other transferee and shall no longer be binding on the seller or other transferor.

114. Counterparts. These Proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

**[SIGNATURES ON FOLLOWING PAGES]**

**APPLICANT:**

CITYLINE PARTNERS LLC  
*Applicant and Agent for Title Owners*

By:   
Name: \_\_\_\_\_  
Title: CE

**CITYLINE OWNERS:**

FRANKLIN 7903 WESTPARK LLC  
*Title Owner of Parcel 29-4-((7))-1*

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

GRAYSON 7913 WESTPARK LLC  
*Title Owner of Parcel 29-4-((7))-2*

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CAMPBELL-SCOTT WESTPARK LLC  
*Title Owner of Parcel 29-4-((7))-3*

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ESSEX 7929 WESTPARK LLC  
*Title Owner of Parcel 29-4-((7))-9*

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

FREDERICK 8003 WESTPARK LLC  
*Title Owner of Parcel 29-4-((7))-10*

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**COUNTY:**

FAIRFAX COUNTY BOARD OF  
SUPERVISORS, a body politic  
*Title Owner of Westbranch Drive Right-of-Way*

By: Edward L. Long, Jr.  
Name: Edward L. Long, Jr.  
Title: County Executive

**AMT:**

AMT-THE ASSOCIATION FOR  
MANUFACTURING TECHNOLOGY  
*Title Owner of Parcel 29-4-((7))-5A*

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ESSEX 7929 WESTPARK LLC**  
*Title Owner of Parcel 29-4-(7)-9*

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**FREDERICK 8003 WESTPARK LLC**  
*Title Owner of Parcel 29-4-(7)-10*

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**COUNTY:**

**FAIRFAX COUNTY BOARD OF SUPERVISORS**, a body politic  
*Title Owner of Westbranch Drive Right-of-Way*

By: \_\_\_\_\_  
Name: Edward I. Long, Jr.  
Title: County Executive

**AMT:**

**AMT-THE ASSOCIATION FOR MANUFACTURING TECHNOLOGY**  
*Title Owner of Parcel 29-4-(7)-5A*

By: \_\_\_\_\_  
Name: J. Lynn H. ...  
Title: ... Business Development

**CONTRACT PURCHASER:**

HOME PROPERTIES TYSONS LLC  
*Contract Purchaser of Parcel 29-4-(7)-10*

BY: Home Properties, L.P., its sole member

BY: Home Properties, Inc., its general partner

By: *[Signature]*  
Name: *Donald R. Hague*  
Title: *Sr Vice President, Development*

**CONTRACT PURCHASER:**

HANOVER R.S.LIMITED PARTNERSHIP  
*Contract Purchaser of Parcels 29-4-(7)-1 and  
29-4-(7)-2 (part)*

BY: THC Capital G.P. LLC, its sole general  
partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CONTRACT PURCHASER:**

HOME PROPERTIES TYSONS LLC  
*Contract Purchaser of Parcel 29-4-((7))-10*

BY: Home Properties, L.P., its sole member  
BY: Home Properties, Inc., its general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CONTRACT PURCHASER:**

HANOVER R.S.LIMITED PARTNERSHIP  
*Contract Purchaser of Parcels 29-4-((7))-1 and  
29-4-((7))-2 (part)*

BY: THC Capital G.P. LLC, its sole general  
partner

By: Kathy K. Binford  
Name: KATHY K. BINFORD  
Title: VICE PRESIDENT





**WELLS + ASSOCIATES**  
Transportation • Traffic • Parking • Planning



# Arbor Row TDM Plan

August 2012



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# Arbor Row TDM Plan

*Prepared by:*

Robin Antonucci  
Courtney Menjivar  
Justin Schor  
Kevin Fellin

August 2012

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## Table of Contents

Section 1   Introduction.....	8
1.1 Tysons Corner Urban Center.....	8
Section 2   State of the Commute.....	11
2.1 Profile of Virginia Commuters.....	11
2.2 Profile of Fairfax County Commuters.....	13
Section 3   Arbor Row.....	14
3.1 Project description.....	14
3.2 Vehicular Access.....	14
3.3 Distance from Metrorail.....	16
3.4 Trip Reduction Goals.....	17
Overview.....	17
Transit Mode Share.....	19
Internal Synergy.....	19
Section 4   Evaluation of TDM and Potential Measures.....	24
4.1 Examples of TDM Measures.....	24
4.2 TDM Program Impacts.....	25
4.3 National Application/Experience.....	26
Office.....	26
Residential.....	27
4.4 Regional Application/Experience.....	28
Arlington County.....	28
City of Rockville.....	29
4.5 Fairfax County Application/Experience.....	29
Section 5   TDM Program Elements.....	31
5.1 Arbor Row TDM Program Goals and Objectives.....	32
5.2 Design Elements.....	33
5.3 Existing Fairfax County and Regional TDM Programs.....	35
Rideshare (Carpooling and Vanpooling).....	35
Cycling.....	35

Telework.....	36
Transit.....	36
Benefits.....	36
5.4 TDM Measures Checklist.....	37
5.5 Arbor Row Site Wide TDM Program Elements.....	37
Site-wide TDM Program Management.....	37
TDM Program Branding.....	39
Program Web Site.....	40
Promote Real-time Transit Information.....	40
Site-based Transportation Access Guide.....	40
Transportation Fair.....	41
Live-Work-Play Marketing.....	41
Bicycle Accommodations.....	41
Public Bike Storage Facility.....	42
Bike Share.....	42
Carsharing Placement and Services.....	43
Vehicle Parking Management.....	43
Commuter Café.....	45
5.6 Arbor Row Office TDM Program Elements.....	45
Onsite Transportation Coordinators.....	45
Try Transit Campaign for Office Employees.....	46
Pretax Metrorail, Vanpool, and Bicycle Benefit Programs.....	46
Guaranteed Ride Home Program.....	47
Carpool Matching Program.....	47
Telework and Variable Work Schedules.....	47
5.7 Arbor Row Residential TDM Program Elements.....	48
Residential Transportation Coordinators.....	48
Try Transit Campaign.....	48
5.8 Arbor Row Hotel and Retail TDM Program Elements.....	49
Try Transit Campaign.....	49
Pretax Metrorail, Vanpool, and Bicycle Benefit Programs.....	49

Guaranteed Ride Home Program.....	50
Carpool Matching Program.....	50
Section 6   Evaluation and Monitoring.....	51
6.1 Monitoring.....	51
Person Survey.....	51
Vehicular Traffic Counts.....	52
6.2 Schedule and Milestones.....	52
6.3 Annual Reports.....	53
Section 7   Program Funding & Sustainability.....	54
7.1 TDM Account.....	56
7.2 TDM Incentive Fund.....	56
7.3 TDM Remedy Fund.....	57
7.4 TDM Penalty Fund.....	57
Section 8   Program Implementation.....	58
8.1 TDM Work Plan.....	58
8.2 Schedule and Milestones.....	58
Section 9   TOD District Wide TDM Recommendations.....	60
9.1 Transportation Management Associations.....	60
9.2 Transportation Management Districts.....	61
9.3 Vehicle Trip Reduction Goals and Monitoring.....	62
PAGE INTENTIONALLY LEFT BLANK.....	63
References.....	64
Appendix.....	66
APPENDIX A – Relevant Comprehensive Plan Text for Tysons I & II District.....	66
APPENDIX B – CDP Sheets.....	73
APPENDIX C – Applicant’s Statement of Justification.....	75
APPENDIX D – Results of Trip Generation Model.....	115
APPENDIX E – Arlington County TDM Matrix.....	121
APPENDIX F – Definitions of TDM Categories.....	122
APPENDIX G – Sample Commute Survey.....	124
APPENDIX H – Site Trip Generation Percentages.....	126

## EXHIBIT B

### MARKETING STRATEGY FOR WORKFORCE DWELLING UNITS (WDUs) – ARBOR ROW, BLOCK D

#### Website:

The primary vehicle for collecting prospect names will be a website focused on educating potential purchasers about the WDUs that will be available at Arbor Row, Block D (referred to herein as “The Tyson’s Corner Condominium”). The website is anticipated to be launched approximately eight (8) months prior to delivery of the building. Website content shall be reviewed by Fairfax County Department of Housing and Community Development prior to the website launch. Said review shall be completed within five (5) business days so as not to delay website launch.

The goal of the website is to build the dream of what it will be like to live in The Tyson’s Corner Condominium community and to provide information specific to the opportunity to purchase an affordable home in the building. Web site visitors will be asked to register in order to make a sales appointment to find out the details of the real estate purchase. It is from this WDU preview list that sales appointments will be made.

#### Website Components:

*Overview:* The website’s main purpose is to communicate the vision of The Tyson’s Corner Condominium. The website will highlight the opportunity to purchase an affordable home in the building, identify affordability income tiers, and describe what it will be like to live there.

*Features:* The WDU features at The Tyson’s Corner Condominium will be listed on the project website. Photographic quality renderings of the residences will be included in this section to give a feel for the product being offered.

*Amenities:* Renderings of community spaces will be made available on the website to communicate available amenities and state-of-the-art offerings.

*Location:* Tyson’s Corner is the largest private employment center in the area. Residents will benefit from the opportunity to patronize, as well as work at, the shopping and dining venues in Tysons. The benefits associated with living in the Washington, DC region will be outlined and may include descriptions of: three national airports, the Kennedy Center, Smithsonian Museums, the National Mall, world-class shopping and dining, easy access to local employment, and accessibility to the newly opened Silver Line.

*Floor Plans:* The website will contain the available floor plans.

*Register for Priority Preview List:* The main purpose of the website is to collect names on the WDU preview list. Not only will contact information be collected from registrants, but also demographic information including household size, total gross household income, pre-approval amount, age, current house-type, residence type desired and marketing vehicle used. Such marketing and collection of information shall be completed on a non-discriminatory basis in conformance with the Fair Housing Act and all other applicable laws and regulations. This information will be compiled and provided to the marketing and sales team on a regular basis in order to monitor the marketing efforts and adjust those efforts as needed. One objective is to provide a link to this website on Fairfax County's affordable housing website and Fairfax County's employee website.

Public Relations:

A series of press releases will outline details of the project to the media approximately eight (8) months prior to delivery of the residential building. The purpose of the press releases is to begin gaining exposure for the WDUs available at The Tysons's Corner Condominium and direct potential purchasers to the website. The press releases will be reviewed by Fairfax County's Housing and Community Development. Said review shall be completed within five (5) business days so as not to delay distribution.

Temporary Sales Center:

A sales center will be created on or nearby the site. The goal of the sales center is to sell the vision of The Tyson's Corner Condominium in a small sales environment. A touch screen kiosk will allow prospective purchasers to get more information about the project and begin choosing the best floor plan to match their budget. Simple sales graphics will focus on the residences including: exterior rendering, amenity rendering, floor plans, features, amenities, and services.

Advertising Campaign:

The Tyson's Corner Condominium will establish itself as the first condominium building in Fairfax County with WDUs. Therefore, the advertising campaign must introduce this unique opportunity and educate potential purchasers about its benefits. A regional ad campaign will be launched approximately eight (8) months prior to delivery of the residential building. Advertising in local newspaper and magazine outlets will create awareness of The Tyson's Corner Condominium among Fairfax County residents who might otherwise be priced out of the Tysons real estate market. The internet may also be utilized to distribute information. The advertising campaign will be reviewed by Fairfax County's Housing and Community Development. Said review shall be completed within five (5) business days so as not to delay publication.

The campaign's main purpose is to communicate the unique opportunity to purchase an affordable residence at The Tyson's Corner Condominium. Communication tools may include:

Print publications

Create ads specifically targeting the WDU audience in publications such as:

*Northern Virginia Magazine*  
*Fairfax Times*  
*Connection Newspapers*

Internet:

Create listings and banner ads specifically targeting the WDU audience on sites such as:

*Zillow.com*  
*Trulia.com*  
*BDX.com*  
*Rec.gov*  
*Patch.com*  
*Facebook*  
*AdWords*

Email and direct mail

Send direct mail and email through specialty lists that target the WDU audience. This will include coordination with Fairfax County's Housing and Community Development.

Sales Process:

When prospective purchasers arrive for their appointments, they will be greeted and offered refreshments by the receptionist, after which a sales representative will be introduced.

Displays and a kiosk will be available to facilitate the selection of a home that will suit their needs, and match their budget. Prior to the execution of a residential sales contract by the purchaser, the seller will submit required documentation provided by the purchaser to Housing and Community Development and request the issuance of a certificate of qualification. It is the responsibility of the purchaser to submit all the required documentation. Incomplete or missing documentation will not be accepted. Upon submission of a complete package, all documentation shall be reviewed by Housing and Community Development within seven (7) business days so as not to delay contract execution.

Broker Events:

The brokerage community in the Washington area is very strong, therefore, it will be important to host a series of events to introduce the buying opportunities at the project. The parties are anticipated to take place during weekday lunch hours. At such an event,

lunch is offered and a presentation is given regarding The Tyson's Corner Condominium. The goal of the parties is to educate brokers on the unique offering and encourage them to bring their prospects to the sales center to purchase a residence. The more excited and knowledgeable a broker is about a project, the more likely he will be to steer the appropriate prospects toward the project.

{A0701608 DOCX / 1 Exhibit A to Draft WDU Proffer for Arbor Row Block D (cfn) - 03 11.16 007366 000003}