PROFFER STATEMENT
BATMAN/MCNAIR ASSOCIATES, L.P. – STORMWATER FACILITIES

PCA 87-C-060-11

June 8, 2004

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950, as amended, subject to the Board of Supervisors approving a Proffered Condition Amendment for Tax Map 16-3 ((1)) 35H pt., 16-3 ((9)) (6) B1 pt., 16-3 ((1)) 35J pt., 16-3 ((1)) 37A pt., 25-1 ((1)) 3J pt., 25-1 ((20)) (2) C pt., and 25-1 ((20)) (6) A pt. (the "Property"), Batman/McNair Associates, L.P. (the "Applicant"), for itself, its successors and assigns, hereby reaffirms the previous proffers applicable to the Property, which will remain in full force and effect, except as amended as follows:

1. Replace RZ 87-C-060 Proffer No. 22 with the following:

   a. Stormwater management shall be provided in accordance with the Public Facilities Manual (PFM), unless modifications are permitted by the Department of Public Works and Environmental Services (DPWES), and located generally as indicated in the Conceptual/Final Development Amendment Plan (CDPA/FDPA) entitled "McNair Farms Ponds A, B, C & D", which was prepared by Charles P. Johnson & Associates, and dated August 8, 2003, as revised through May 20, 2004.

   b. BMP's shall be provided in accordance with Public Facility Manual standards.

   c. Ponds A, B and C shall be landscaped above the BMP level, or the two-year water surface elevation, whichever is applicable to each pond, to the extent feasible as determined by the Urban Forestry Division, pursuant to the policy adopted by the Board of Supervisors, using native or other desirable hydrophilic vegetation species. This proffer shall not apply to Pond D, as no reconstruction is proposed in Pond D.

   d. The Applicant shall conform to the limits of clearing and grading as shown on the CDPA/FDPA, subject to minor adjustments, as determined necessary by the Director of DPWES. If it is determined necessary that minor adjustments to the limits of clearing and grading as shown on the CDPA/FDPA are required, they shall be made in the least disruptive manner necessary as determined by the Urban Forester, DPWES.

   e. A replanting plan shall be developed and implemented, subject to approval by the Urban Forester, for any areas exceeding the limits of clearing and grading on the CDPA/FDPA. This replanting plan shall be submitted with the first and all subsequent site plan submissions for review and approval by the Urban Forestry Division. The replanting plan shall propose an appropriate selection of species

based on existing and proposed site conditions to restore the area to a native forest cover type. The replanting plan shall include, but not be limited to the following:

- A plant list detailing species, sizes and stock type of trees and other vegetation to be planted;
- Soil treatments and amendments, if necessary;
- Mulching specifications;
- Methods of installation;
- Maintenance (not to exceed three (3) years);
- Mortality threshold of each species;
- Monitoring of the tree's health (not to exceed three (3) years; and
- A replacement schedule for those trees that do not survive three (3) years from the completion of reforestation.

f. The Applicant shall retain the services of a certified arborist or landscape architect, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an Urban Forester representative to determine where minor adjustments to the clearing limits can be made to increase the survivability of trees no more than ten (10) feet from the edge of the limits of clearing and grading. The Applicant shall make those adjustments, provided, however, that such adjustments shall not cause the stormwater management ponds to not meet PFM standards. Trees labeled for preservation on the CDPA/FDPA that are not likely to survive due to their species and/or proximity to land disturbance will be identified at this time, and the Applicant shall remove them and provide replacement trees with the species and location of replacement trees subject to the approval of the Urban Forester. Such replacement trees shall not be required to exceed 2½ inches in diameter (if deciduous), or six (6) feet in height (if evergreen) at planting. Any tree that is designated for removal at the edge of the limits of clearing and grading or within a tree preservation area shall be removed using a chain saw to avoid damage to surrounding trees. 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 the adjacent trees. No driven equipment shall be used in this area of tree removal. Selected other trees may be removed from the tree save area as identified by the Urban Forester, without the need for replacement by the Applicant.

g. Tree protection fencing, consisting of four (4) foot high, 14-gauge welded wire attached to six (6) foot tall steel "T" posts, two (2) inches in diameter, driven eighteen (18") inches into the ground and placed no farther than ten (10) feet apart, shall be placed at the limits of clearing and grading as shown on the CDPA/FDPA. However, in those areas along the embankment of Pond C, the

posts shall be driven twenty-four (24) inches into the ground. The tree protection fencing shall be made clearly visible to all construction personnel. The tree protection fencing shall be installed prior to the performance of any clearing and grading activities on the site. All tree preservation activities, including installation of tree protection fencing, shall be performed under the supervision of a Project Arborist. Prior to the commencement of any clearing or grading on the site, the Project Arborist shall verify in writing that the tree protection fencing has been properly installed.

h. Site and replanting plans shall be submitted for review and approval within forty-five (45) days of the Applicant receiving the Clerk's Letter and Board Ordinance approving the Proffer Condition Amendment and shall be diligently pursued. Within thirty (30) days of receiving all required plan approvals and permits, the limits of clearing and grading shall be marked in accordance with the previous proffer for review and approval of the Urban Forester. Clearing and grading activities shall have begun within one (1) week of approval of the limits of clearing, weather permitting. The clearing and grading, and construction of the stormwater facilities shall be diligently pursued. Within sixty (60) days of the stormwater management facility's completion, landscaping shall be installed in accordance with the previous proffer, weather permitting. The work shall be completed and inspected by DPWES by November 1, 2005. The Applicant shall submit an As-Built plan within forty-five (45) days of the ponds' completion. The Applicant shall address any deficiencies noted by DPWES upon completion of their review of the As-Built plan within sixty (60) days. Prior to each deadline, the Zoning Administrator and County Attorney shall be informed, in writing, as to the progress of the stormwater facility's construction, design landscaping and approvals. The County Executive, or his designee, may approve an extension of the deadlines listed above based upon a determination that a delay or failure to perform is caused by Force Majeure. The term "Force Majeure" shall be deemed to be any delay that is the result of war, acts of God, adverse weather conditions, labor strikes, shortage of materials in the marketplace, shortage of subcontractors availability, delays in utility relocation, or any other cause not within the reasonable control of the Applicant. The Applicant shall inform the Zoning Administrator and County Attorney as to the progress of the stormwater facility with reasonable notice of any probable delays caused by Force Majeure.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

PCA 87-C-060-11
Proffer Signature Sheet

TITLE OWNER OF TAX MAP 16-3 ((1)) 35H

WESLEY COPPERMINE LIMITED PARTNERSHIP

By: Nancy L. Minter Nancy L. Minter
Its: VICE PRESIDENT

[SIGNATURES CONTINUED ON NEXT PAGE]

PCA 87-C-060-11
Proffer Signature Sheet

TITLE OWNER OF TAX MAP 25-1 ((1)) 3J

TEACHERS REA LLC

By: Philip J. McAndrews
Its: Vice President

[SIGNATURES CONTINUED ON NEXT PAGE]

PCA 87-C-060-11
Proffer Signature Sheet

TITLE OWNER OF TAX MAP 25-1 ((20)) (2) C

MCNAIR FARMS LAND BAY 6 SECTION 2
HOMEOWNERS ASSOCIATION, INC. d/b/a PARK
VIEW HOMEOWNERS ASSOCIATION

By: Karen Sue Hurwitz
Its: President

[SIGNATURES CONTINUED ON NEXT PAGE]

PCA 87-C-060-11
Proffer Signature Sheet

TITLE OWNER OF TAX MAP 25-1 ((20)) (6) (A);
16-3 ((9)) (6) B1; 16-3 (1) 35J

MCNAIR FARMS COMMUNITY ASSOCIATION, INC.

By: Dick Nabors
Its: President

[SIGNATURES CONTINUED ON NEXT PAGE]

PCA 87-C-060-11
Proffer Signature Sheet

TITLE OWNER OF TAX MAP 16-3 ((1)) 37A

JEFFERSON COMMONS LIMITED PARTNERSHIP

By: Jefferson Commons L.C., Its General Partner

By: KSI Services, Inc., its Manager

_____
By: Richard W. Hausler
Its: President

By: Clark Realty Capital, L.L.C., its Manager

_____
By: Douglas R. Sandor
Its: Manager

By: CEI Realty, Inc., its Manager

_____
By: Lawrence C. Nussdorf
Its: President

[SIGNATURES END]

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