

RESOLUTION NO. RS-2016- 16

A RESOLUTION FOR THE PURPOSE OF MAKING CERTAIN FINDINGS AND DETERMINATIONS; DESIGNATING A CONTIGUOUS AREA WITHIN COUNTY COMMISSIONERS OF WASHINGTON COUNTY (THE "COUNTY") AS A "DEVELOPMENT DISTRICT" AS THAT TERM IS USED IN SECTIONS 12-201 THROUGH 12-213, INCLUSIVE, OF THE ECONOMIC DEVELOPMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND (THE "TAX INCREMENT FINANCING ACT"), SUCH DEVELOPMENT DISTRICT TO BE KNOWN AS THE "CONOCOCHIEGUE DEVELOPMENT DISTRICT;" PROVIDING FOR, AND DETERMINING, VARIOUS MATTERS IN CONNECTION WITH THE ESTABLISHMENT OF SUCH DEVELOPMENT DISTRICT; CREATING A TAX INCREMENT FUND WITH RESPECT TO THE DEVELOPMENT DISTRICT; ALLOCATING CERTAIN INCREMENTAL COUNTY REAL PROPERTY TAX REVENUES WITH RESPECT TO THE DEVELOPMENT DISTRICT TO BE PAID OVER TO THE TAX INCREMENT FUND AS PROVIDED IN THE TAX INCREMENT FINANCING ACT; AUTHORIZING COUNTY OFFICIALS, OFFICERS AND EMPLOYEES TO TAKE CERTAIN FURTHER ACTIONS; PROVIDING FOR A SUNSET DATE WITH RESPECT TO THIS RESOLUTION; PROVIDING THAT THE PROVISIONS OF THIS RESOLUTION SHALL BE LIBERALLY CONSTRUED; PROVIDING THAT THE PROVISIONS OF THIS RESOLUTION ARE SEVERABLE; AND GENERALLY RELATING TO THE CONOCOCHIEGUE DEVELOPMENT DISTRICT.

RECITALS

1. Sections 12-201 through 12-213, inclusive, of the Economic Development Article of the Annotated Code of Maryland (the "Tax Increment Financing Act") authorize a county or a municipal corporation (referred to in the Tax Increment Financing Act as a "political subdivision") to establish a "development district" (as such term is used in the Tax Increment Financing Act) and a "special fund" (as such term is used in the Tax Increment Financing Act) into which real property taxes levied by the political subdivision on the "tax increment" (as such term is used in the Tax Increment Financing Act) of properties located in the development district shall be deposited.

2. The Tax Increment Financing Act further provides that a political subdivision may issue "bonds" (as such term is used in the Tax Increment Financing Act) in order to finance the new development, redevelopment, revitalization and renovation of an industrial, commercial or residential area by paying for (i) the cost of a variety of activities specified in the Tax Increment Financing Act pertaining to improvements generally subject to characterization as public improvements or infrastructure improvements; (ii) reserves or capitalized interest; (iii) necessary costs of issuing such bonds; and (iv) the principal of and interest on loans, advances or indebtedness incurred by a political subdivision for any of the foregoing purposes.

3. The Tax Increment Financing Act provides that any such bonds shall be payable from the special fund established in accordance with Section 12-208 of the Tax Increment Financing Act and the political subdivision may also establish sinking funds and debt service reserve funds, and pledge other assets and revenues toward the payment of such bonds.

4. Dot Foods, Inc., an Illinois corporation (the "Company"), maintains a food distribution business at 16301 Elliott Parkway, Williamsport, Maryland, which is located in an unincorporated area of Washington County, Maryland. The Company is the owner of four parcels of land located in the area of the existing business. The Company intends to construct a new truck maintenance facility and a parking area/truck staging area and renovate an existing warehouse and construct a warehouse expansion in order to expand its business in Washington County.

5. The Company has requested that County Commissioners of Washington County (the "County"), as permitted by the Tax Increment Financing Act, participate in the financing or reimbursement of a portion of the costs of certain infrastructure improvements, including parking improvements and, potentially, any other improvements that meet the requirements of the Tax Increment Financing Act, that will support and enhance the Company's operations. The Company has identified seven (7) parcels of land, which, together with certain other property as described herein, comprise a contiguous area as required by the Tax Increment Financing Act. The County constitutes a "political subdivision" for purposes of the Tax Increment Financing Act.

6. The Company has requested that, in order to facilitate the obtaining of financing for project development purposes and take the first step necessary to evidence the County's intention to provide tax increment financing as described in this Resolution, the County adopt this Resolution in order to create the contemplated development district, pledge its incremental tax revenues to support payment of bonds issued by the County under the Tax Increment Financing Act and other allowable expenditures, and establish the special fund required by the Tax Increment Financing Act.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, THAT:

Section 1. DEFINITIONS; RULES OF CONSTRUCTION.

(a) For purposes of this Resolution, the capitalized terms defined in the Recitals hereto shall have the meanings therein set forth (unless also defined in this Section 1) and, in addition, the following capitalized terms shall have the meanings set forth below:

(1) "Adjusted Assessable Base" means the fair market value of real property that qualifies for a farm or agricultural use under Section 8-209 of the Tax-Property Article of the Annotated Code of Maryland, without regard to the agricultural use assessment for the property as of January 1 of that year preceding the effective date of this Resolution creating the Development District under Section 12-203 of the Tax Increment Financing Act.

(2) "Assessable Base" means the total assessable base, as determined by the Supervisor of Assessments (as such term is used in the Tax Increment Financing Act), of all real property subject to taxation in the Development District.

(3) "Assessment Ratio" means a real property tax assessment ratio, however designated or calculated, that is used under applicable general law to determine the Assessable

Base, including the assessment percentage as provided under Section 8-103(c) of the Tax-Property Article of the Annotated Code of Maryland.

(4) “Board” means the Board of County Commissioners of Washington County. The Board constitutes the “governing body” of the County contemplated by the Tax Increment Financing Act.

(5) “Bonds” means any revenue bonds or bond, notes or note, or other similar instruments or instrument issued in one or more series from time to time by the County pursuant to the authority of the Tax Increment Financing Act in order to initially finance costs of infrastructure improvements with respect to the Development District (including infrastructure improvements within or, to the extent permitted by the Tax Increment Financing Act, outside the Development District).

(6) “County” means County Commissioners of Washington County, a body politic and corporate and a political subdivision of the State of Maryland. The County is a “political subdivision” within the meaning of the Tax Increment Financing Act.

(7) “Development District” means the contiguous area in the County designated in Section 3 of this Resolution as a development district with the name “Conococheague Development District” pursuant to the authority of the Tax Increment Financing Act and identified on Exhibit A to this Resolution.

(8) “Indenture” means any indenture of trust, trust indenture, trust agreement or similar document (howsoever named) entered into by the County with a trustee identified therein or with the holders of any Bonds or Refunding Bonds in connection with the issuance of any Bonds or Refunding Bonds, as amended, modified or supplemented from time to time. As used in this Resolution, Indenture shall be deemed to include and refer to any document that contains details regarding the terms and provisions of, and security for, any series of Bonds or Refunding Bonds and is commonly known as a “financing agreement”, a “bond and financing agreement”, a “development agreement” or by a similar name.

(9) “Original Base” means the Assessable Base as of January 1 of the year preceding the effective date of this Resolution (which calculated date is, accordingly, January 1, 2015).

(10) “Original Full Cash Value” means the dollar amount that is determined by dividing the Original Base by the Assessment Ratio used to determine the Original Base.

(11) “Original Taxable Value” means, for any Tax Year, the dollar amount that is:

(A) the Adjustable Assessable Base, if an Adjusted Assessable Base applies; or

(B) in all other cases, the lesser of:

(i) the product of multiplying the Original Full Cash Value by the Assessment Ratio applicable to that Tax Year; and

(ii) the Original Base.

(12) "Refunding Bonds" means any revenue bonds or bond, notes or note, or other similar instruments or instrument issued in one or more series from time to time by the County to refund any of the Bonds and to pay other costs permitted by the Tax Increment Financing Act with respect to the Development District.

(13) "Tax Increment" means for any Tax Year, the amount by which the Assessable Base as of January 1 of the preceding Tax Year exceeds the Original Taxable Value divided by the Assessment Ratio used to determine the Original Taxable Value.

(14) "Tax Increment Fund" means the special fund established in Section 5 of this Resolution with the designation "Conococheague Development District Tax Increment Fund" or as otherwise described in Section 5 of this Resolution. The Tax Increment Fund is the "special fund" referred to in the Tax Increment Financing Act with respect to the Development District.

(15) "Tax Year" means the period from July 1 of a calendar year through June 30 of the next calendar year.

(b) The Recitals to this Resolution are deemed a substantive part of this Resolution and are incorporated herein by reference.

(c) Certain other capitalized terms used in this Resolution are defined in specific Sections of this Resolution and shall have the meanings given to such capitalized terms in such Sections.

(d) References in this Resolution (i) to provisions of the Annotated Code of Maryland or to the County Code (as defined in subsection (g) below), including to the Tax Increment Financing Act, shall be to such provisions, as replaced, supplemented or amended from time to time, and (ii) to terms also defined in the Tax Increment Financing Act are to be construed in accordance with the provisions of the Tax Increment Financing Act, and in the event of any inconsistency between such terms as used in this Resolution and the Tax Increment Financing Act, the provisions of the Tax Increment Financing Act shall control.

(e) References in this Resolution to "infrastructure improvements" are intended to include the activities relating to improvements generally characterized as infrastructure improvements or public improvements to the costs of which proceeds of bonds may be applied in accordance with the provisions of the Tax Increment Financing Act.

(f) References in this Resolution to "finance" or "financing" are intended to include "reimburse" or "reimbursing", as applicable.

(g) References in this Resolution to any County official by title shall be deemed to refer (i) to any official authorized under the Code of Public Local Laws of Washington County,

Maryland, as replaced, supplemented or amended from time to time (the "County Code") or other applicable law or authority to act in such titled official's stead during the absence or disability of such titled official, (ii) to any person who has been elected, appointed or designated to fill such position in an acting capacity under the County Code or other applicable law or authority, (iii) to any person who serves in a "Deputy", "Associate" or "Assistant" capacity as such an official, provided that the applicable responsibilities, rights or duties referred to herein have been delegated to such deputy, associate or assistant official in accordance with the County Code or other applicable law or authority, and/or (iv) to the extent an identified official commonly uses another title not provided for in the County Code the official, however known, who is charged under the County Code or other applicable law or authority with the applicable responsibilities, rights or duties referred to herein.

Section 2. FINDINGS AND DETERMINATIONS. Acting pursuant to the authority of the Tax Increment Financing Act, it is hereby found and determined that:

(a) the creation of the Development District provided for in Section 3 of this Resolution, which is a contiguous area within the geographic boundaries of the County, as a development district within the meaning of the Tax Increment Financing Act, the issuance by the County from time to time of one or more series of Bonds pursuant to the Tax Increment Financing Act in order to initially finance costs and activities permitted by the Tax Increment Financing Act relating to the Development District, and the issuance by the County from time to time of one or more series of Refunding Bonds pursuant to the Tax Increment Financing Act and other applicable law in order to refinance costs and activities permitted by the Tax Increment Financing Act relating to the Development District, will serve the public purposes of providing infrastructure improvements permitted by the Tax Increment Financing Act, indirectly enhancing the taxable base of the County, encouraging the development of commerce and industry within the County, and increasing employment within the County through the provision of the contemplated infrastructure improvements within or, to the extent permitted by the Tax Increment Financing Act, outside the Development District; and

(b) any Bonds or Refunding Bonds issued by the County pursuant to the authority of the Tax Increment Financing Act and any other applicable law to finance or refinance the cost of infrastructure improvements within or, to the extent permitted by the Tax Increment Financing Act, outside the Development District, shall be a special obligation of the County and may not constitute a general obligation debt of the County, a pledge of the County's full faith and credit or taxing power, or a pledge of any other assets or revenues of the County otherwise permitted to be pledged for such purpose in accordance with the provisions of the Tax Increment Financing Act, and the County shall not be obligated to pay debt service on such Bonds or Refunding Bonds except from moneys required to be deposited into the Tax Increment Fund; and

(c) the proposed Development District is located wholly within the geographic boundaries of the County.

Section 3. DESIGNATION OF DEVELOPMENT DISTRICT.

(a) A contiguous area of the County consisting of the real property outlined in the map attached hereto as Exhibit A is hereby designated as a development district (to be known as the “Conococheague Development District” and as referred to in this Resolution as the “Development District”) pursuant to Section 12-203 of the Tax Increment Financing Act. The Development District shall consist of the property identified in Exhibit A attached to this Resolution, and all adjoining roads, highways, alleys, rights of way and other similar property in order to form a contiguous area as shown on the map attached hereto as Exhibit A. The Development District includes the following seven (7) parcels of property, currently identified by the account identification numbers used in the Maryland State Department of Assessments and Taxation records and approximate acreage (in addition to all adjoining roads, highways, alleys, rights of way and other similar property necessary in order to form a contiguous area together with such parcels):

| <u>Account Identifier</u> | <u>Approximate Acreage</u> |
|---------------------------|----------------------------|
| 02 018144 | 17.00 |
| 02 022761 | 33.60 |
| 02 065545 | 9.01 |
| 02 022745 | 66.83 |
| 02 017520 | 2.00 |
| 02 019345 | 4.47 |
| 02 020505 | 4.25 |

(b) The boundaries of the Development District may be modified prior to and after the issuance of any Bonds or Refunding Bonds as provided in Section 4 of this Resolution. It is intended by the designation of the Development District that any portion of the real property currently located in the Development District that is subsequently further subdivided or transferred to another party or combined with one or more additional parcels of real property, including parcels located outside the current boundaries of the Development District, shall continue to be within the Development District and subject to the provisions of the Tax Increment Financing Act, notwithstanding such subdivision, transfer or combining.

Section 4. MODIFICATION OF DEVELOPMENT DISTRICT. This Resolution may be amended by one or more resolutions of the Board, which resolutions may enlarge or reduce the Development District. No such resolution shall be effective to reduce the size of the Development District so long as there are any Bonds or Refunding Bonds outstanding pursuant to the Tax Increment Financing Act, unless the ordinance with respect to such Bonds or Refunding Bonds permits the County to reduce the area constituting the Development District or the applicable percentage of the holders of such Bonds or Refunding Bonds specified in the Indenture or a representative on their behalf consents to any such reduction.

Section 5. CREATION AND FUNDING OF TAX INCREMENT FUND.

(a) There is hereby established a special fund within the meaning of the Tax Increment Financing Act to be designated the "Conococheague Development District Tax Increment Fund" (the "Tax Increment Fund"). Prior to the issuance of any Bonds the Tax Increment Fund may be used by the County for any of the purposes set forth in Section 12-209 of the Tax Increment Financing Act, including payments to the County for application to any legal purpose.

(b) The President of the Board (the "President of the Board"), the County Administrator of the County (the "County Administrator") or the Chief Financial Officer of the County (the "Chief Financial Officer") (or other appropriate officers or employees working under the direction of any such identified official), on behalf of the County, following the effective date of this Resolution, but before any Bonds are issued, is each hereby authorized and directed to obtain or cause to be obtained from (i) the Supervisor of Assessments (as such term is used in the Tax Increment Financing Act), a certification as to the amount of the Original Base or, if applicable, the Adjusted Assessable Base, and (ii) the appropriate party, the Assessment Ratio used in determining the Original Base.

(c) The County hereby pledges that beginning with the Tax Year following the effective date of this Resolution and until the Bonds and any Refunding Bonds have been fully paid, the taxes levied on real property within the Development District shall be divided as follows:

(i) the portion of the taxes that would be produced at the current tax rate on the Original Taxable Value shall be paid to the respective taxing authorities in the same manner as taxes on other property are paid; and

(ii) the portion of the taxes on the Tax Increment that normally would be paid into the general fund of the County shall be paid into the Tax Increment Fund to be applied in accordance with the provisions of Section 7 of this Resolution and Section 12-209 of the Tax Increment Financing Act. The taxes collected under this subsection (c)(ii) shall not be considered a tax of the County for the purposes of any constant yield tax limitation or State of Maryland or local restriction. No State of Maryland real property taxes may be paid into the Tax Increment Fund.

Notwithstanding the foregoing provisions of this subsection (c), with respect to any Bonds issued to the Company or an affiliate of the Company, and as requested by the Company, the County agrees that the portion of the taxes to be paid into the Tax Increment Fund in accordance with clause (ii) above shall continue to be paid into the Tax Increment Fund for a period of two (2) real property tax collection cycles beyond the approximately 30-year stated maturity date of such Bonds in the event such Bonds have not been paid in full by their stated maturity.

(d) The Chief Financial Officer or other appropriate fiscal officials or officers of the County are each hereby directed and authorized to deposit or cause to be deposited in the Tax Increment Fund all taxes received by the County for any Tax Year commencing after the

effective date of this Resolution that represent the levy on the Tax Increment referred to in subsection (c)(ii) above.

(e) The President of the Board, the County Administrator, the Chief Financial Officer and other appropriate officials, officers and employees of the County, to the extent applicable, are hereby authorized to take all necessary steps in order to establish and manage the Tax Increment Fund while held by the County.

(f) Notwithstanding the foregoing provisions of this Section 5, the County may provide that the Tax Increment Fund shall be held by an agent of the County, or the trustee for the holders of any Bonds or Refunding Bonds under the Indenture, rather than by the County, and the appropriate officials, officers or employees of the County are hereby authorized to make arrangements therefor, within any limitations provided for in the Tax Increment Financing Act.

(g) The County acknowledges that neither the rate at which County taxes are levied on real property within the Development District nor the manner of assessment of the value of real property within the Development District is to vary from the rate or manner of assessment that otherwise would have applied if the Development District were not designated and the Tax Increment Fund not created, except to the extent that a specific valuation adjustment is mandated by the Tax Increment Financing Act for real property that qualifies for farm or agricultural use or by future amendments to the Tax Increment Financing Act.

Section 6. ISSUANCE OF BONDS. Any Bonds or Refunding Bonds shall be issued from time to time pursuant to an ordinance or ordinances enacted by the Board in accordance with the provisions of the Tax Increment Financing Act for the purpose of providing funds for the financing or refinancing of the costs of infrastructure improvements permitted by the Tax Increment Financing Act and other purposes and costs permitted by the Tax Increment Financing Act. Such ordinance or ordinances shall specify or provide for, in general detail, the infrastructure improvements to be financed through the issuance of the Bonds, and shall otherwise conform to the requirements of the Tax Increment Financing Act and this Resolution, as applicable.

Section 7. USE OF MONEYS IN TAX INCREMENT FUND.

(a) If no Bonds or Refunding Bonds are outstanding and the Board so determines, moneys in the Tax Increment Fund may be:

(i) used for any other purposes described in Section 12-209(a) of the Tax Increment Financing Act (which references Section 12-207 of the Tax Increment Financing Act);

(ii) accumulated for payment of debt service on Bonds or Refunding Bonds to be subsequently issued under the Tax Increment Financing Act;

(iii) used to pay or reimburse the County for debt service which the County is obligated to pay or has paid (whether such obligation is a general or limited obligation of the County) on bonds issued by the State of Maryland, a political subdivision (within the meaning of the Tax Increment Financing Act), the proceeds of which have been used for any of the purposes specified in Section 12-207 of the Tax Increment Financing Act; or

(iv) paid to the County to provide funds to be used for any legal purposes as may be determined by the County.

(b) As long as any Bonds or Refunding Bonds are outstanding and the Board so determines, moneys in the Tax Increment Fund may be used as provided in subsection (a) of this Section 7 in any fiscal year of the County as determined by the Board, but only to the extent that:

(i) the balance in the Tax Increment Fund exceeds the unpaid debt service payable on such Bonds or Refunding Bonds in such fiscal year and the Tax Increment Fund is not restricted so as to prohibit the use of such moneys; and

(ii) such use is not prohibited by the ordinance authorizing the issuance of the applicable Bonds or Refunding Bonds, the Indenture or any agreement entered into by the County in accordance with Section 12-210(a) of the Tax Increment Financing, as applicable.

Notwithstanding the foregoing, with respect to any Bonds issued to the Company or an affiliate of the Company, moneys remaining on deposit in the Tax Increment Fund in any fiscal year, after provision for payment of debt service on the Bonds and any administrative expenses in accordance with the provisions of the Indenture, shall be applied to prepay or redeem such Bonds (including, without limitation, to pay accrued interest), subject to any minimum amount to be used for such purpose specified in the Indenture.

Section 8. FURTHER AUTHORIZATIONS. The President of the Board, the County Administrator, the Chief Financial Officer and all other appropriate officials, officers and employees of the County are hereby further authorized to undertake all such acts and negotiate, approve and execute such other documents, certificates or instruments as shall be deemed necessary or desirable by them or upon the advice of counsel, to the extent such activities are within the scope of their authority, in order to facilitate the transactions contemplated by this Resolution, subject to any limitations specified in the Tax Increment Financing Act.

Section 9. SUNSET DATE. In the event no Bonds are issued pursuant to the Tax Increment Financing Act for the purposes contemplated by this Resolution on or before December 31, 2017, this Resolution shall be automatically revoked without further action by the Board and shall be considered terminated, null and void; provided that, in such event the Board and appropriate officials, officers and employees of the County may take such actions as may be necessary in accordance with the provisions of the Tax Increment Financing Act to provide for the expenditure or transfer of any moneys then on deposit in the Tax Increment Fund subsequent to such date.

Section 10. LIBERAL CONSTRUCTION. The provisions of this Resolution shall be liberally construed in order to effectuate the transactions contemplated by this Resolution.

Section 11. SEVERABILITY. The provisions of this Resolution are severable, and if any provision, sentence, clause, section or part hereof is held or determined to be illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Resolution or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Resolution would have been passed if such illegal, invalid, unconstitutional or inapplicable provision, sentence, clause, section or part had not been included herein, and as if the person or circumstances to which this Resolution or any part hereof are inapplicable had been specifically exempted herefrom.

[CONTINUED ON FOLLOWING PAGE]

Section 12. EFFECTIVENESS OF RESOLUTION. This Resolution shall take effect from the date of its adoption.

Adopted this 13th day of September, 2016.

(SEAL)

ATTEST:

COUNTY COMMISSIONERS OF
WASHINGTON COUNTY

Vicki C. Lumm
Vicki C. Lumm
County Clerk

By: Terry L. Baker
Terry L. Baker, President
Board of County Commissioners
of Washington County

Approved as to form and legal sufficiency:

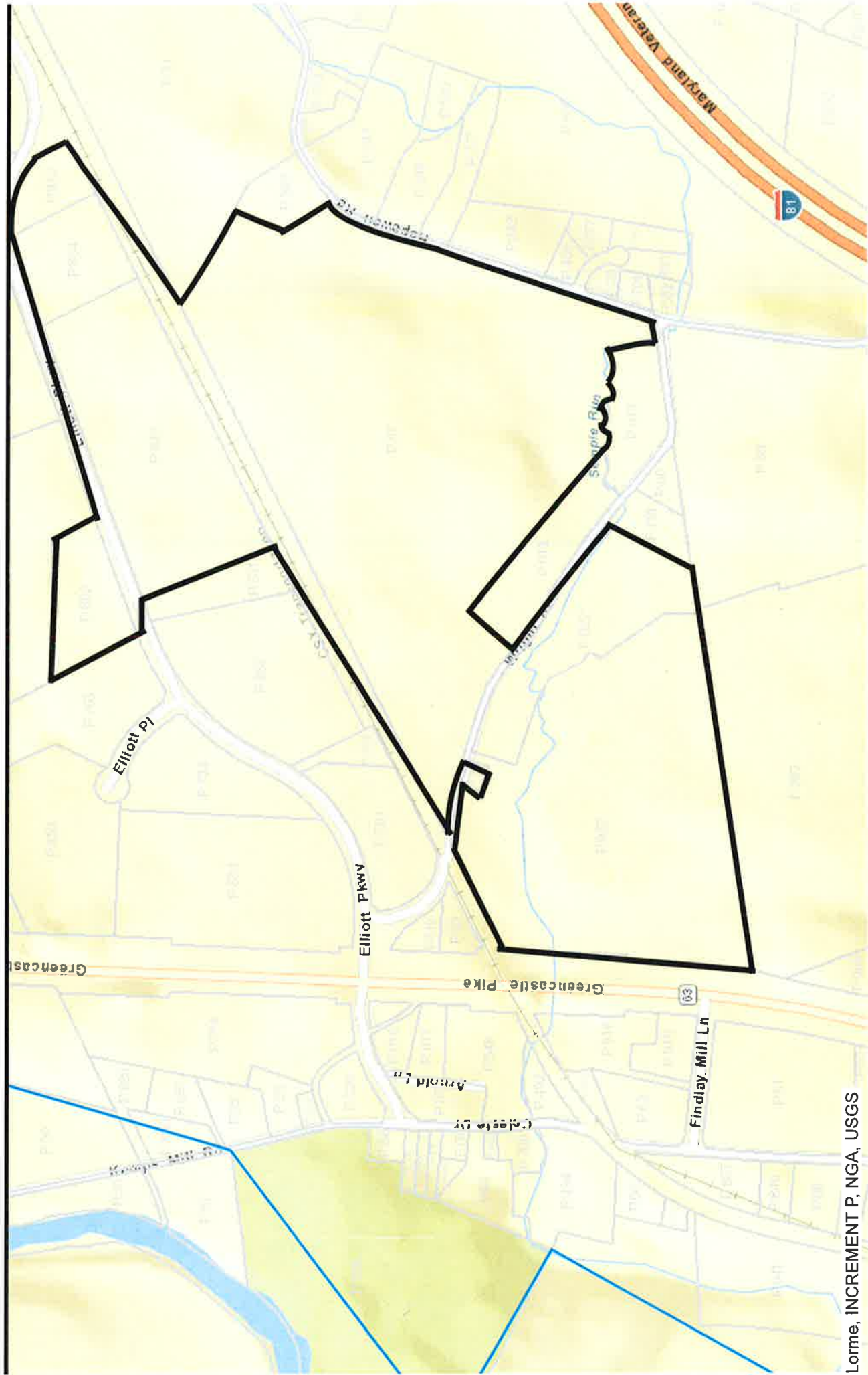
John M. Martirano
John M. Martirano
County Attorney

#189476;50052.024

EXHIBIT A

MAP OF DEVELOPMENT DISTRICT

[See Attached]



Lorme, INCREMENT P, NGA, USGS