

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND

2011 Legislative Session

Legislative Day No. 03

Resolution No. 28-2011

Introduced by: The President of the Council at the request of the County Executive

A RESOLUTION TO AUTHORIZE THE COUNTY EXECUTIVE TO EXECUTE ON BEHALF OF WICOMICO COUNTY A LEASE TO BLACK GOLD FARMS, INC.

WHEREAS, pursuant to Section 22-1 of Chapter 22, entitled "County-owned property" paragraph E, the County Executive is authorized and empowered to lease County property in furtherance of public purposes; and

WHEREAS, Black Gold Farms, Inc. submitted a proposal to lease 200 acres of tillable land (150 irrigated and 50 non-irrigated), located on the northerly and northeasterly side of Levin Dashiell Road and shown as Parcel A and Parcel B on a plat entitled "Boundary Survey for Keith A. Coffin," recorded in plat cabinet M.S.B. No. 15, Folio 849; and

WHEREAS, the property is owned by Wicomico County, Maryland and Keith Coffin, as separate parcels making up the farm property, and a portion known as West Metro Park; and

WHEREAS, the County Executive proposes that Wicomico County, Maryland enter into a lease agreement with Black Gold Farms, Inc. for a term of one year, with three additional one year renewal options, and be given the authority to execute such agreement on behalf of Wicomico County, Maryland; and

WHEREAS, Black Gold Farms, Inc. shall pay rent at an annual rental rate of \$104,000 for the initial one year term; thereafter the annual rent for the renewal terms will be based on a two percent (2%) increase, over the previous term.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Wicomico County, Maryland that the County Executive be, and is hereby, authorized to execute, on behalf of the County, a lease agreement with Black Gold Farms, Inc. for an initial term of one year at an annual rental rate of \$104,000, with three additional one year renewal options.

Done at Salisbury, Maryland, this 1st day of February, 2011.

ATTEST:

Matthew E. Creamer, Council Administrator

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND Gail M. Bartkovich, Council President

CERTIFICATION

This Resolution was Adopted [checked], Adopted with Amendments ____, Failed ____, Withdraw ____ by the County Council on February 1, 2011.

Certified by Matthew E. Creamer, Council Administrator

**LEASE AGREEMENT FOR FARM LAND
WEST METRO PARK/COFFIN PROPERTY**

THIS FARM LEASE, made and entered into on this 1ST day of February 2011, by and between Wicomico County, Maryland, a body politic and corporate, acting on behalf of the Department of Recreation and Parks and Keith Coffin (hereinafter referred to as Lessors), and Black Gold Farms, Inc., (hereinafter referred to as Lessee):

WITNESSETH

1. *Premises:* The Lessors hereby leases to the Lessee, and the Lessee hereby leases from the Lessors, all that tract or parcel of land situate in the Hebron Election District of Wicomico County, State of Maryland, containing Two Hundred (200) acres of tillable land, more or less, located on the northerly and Northeasterly side of Levin Dashiell Road also known as County Road 418, as widened all as more particularly set forth on the hereinafter referenced plat and being fully contained within the boundaries of the property owned by Keith Coffin and Wicomico County, Maryland, as separate parcels making up the Farm property, and known as West Metro Park. In the event that there should be any disagreement between the parties as to the lines of the property herein intended to be leased, the decision of the Lessors as to the actual designation of the line or lines shall be final.

2. *Term:* The term of this Lease shall be for one (1) year commencing on January 1, 2011 and terminating on December 31, 2011. The Lease may be renewed, by mutual agreement of the parties, for three (3) additional one-year terms. The rental for each renewal term shall be the rent for the prior term plus a 2% increase. The total term of contract may not exceed four (4) years.

3. *Rent:* The Lessee shall pay the Lessors during the term of this Lease a rental payment of ~~Six Hundred Ninety Three~~ ^{Six Five} dollars and Thirty-three cents (~~\$693.33~~ ^{\$650}) per irrigated acre (150 acres) for a total of One Hundred Four Thousand Dollars (\$104,000.00). The rental shall be paid in full by the Lessee to the Lessors at the time this agreement is executed and no later than December 31st of the prior year for any one-year renewal terms. The rental due shall be paid as follows: One-half to Wicomico County, and one-half to Keith Coffin. KAC
\$520.00

4. *Use:* The Lessee covenants and agrees that he shall occupy and use the demised premises solely for agricultural and related purposes and shall farm, cultivate and manage the whole of the premises in a good and husbandlike manner and shall keep the whole in good condition and not allow any part of the land to become impoverished and to have the arable land at all times clean and free from weeds and never sown with any prejudicial crop. Hunting rights on the properties will be controlled by the lessors.

5. *Assignment and Subletting:* the parties further covenant and agree that the premises may not be assigned, sublet or any portion thereof without the prior written consent of the Lessor.

6. *Irrigation System:* Lessors own and provide the irrigation systems for the Lessee's use. The Water Appropriation and Use Permit allocation has been tentatively calculated by MDE for annual average daily use of 183,000 gallons per day and an annual average monthly use of 1,112,000 gallons (application pending). Lessee is responsible for repairs to the irrigation system including all parts costing less than \$1,500.00. In the event there is a repair part or parts costing in excess of \$1,500.00, Lessee must notify Lessors to provide Lessors the opportunity to obtain the best pricing available. All expenses for parts in excess of \$1,500.00 will be shared equally three ways between the two Lessors and the Lessee.

7. *Waste:* Lessee covenants and agrees that he will not commit waste on or damage to the farm and will use due care to prevent others from doing so.

8. *Indemnification:* The Lessee hereby agrees to indemnify the Lessors against and hold the Lessors harmless from any and all claims or demands for loss of or damage to property or for injury or death to any person from any cause whatsoever, upon or about the leased premises or adjacent roads or walkways, occasioned wholly or in part by any act or omission of the Lessee, its agents, licensees, contractors, customers, or employees during the term of this Lease. Lessee hereby releases Lessors, their agents, servants and employees from any and all present or future claims, causes, actions, or damages arising out of

or in any manner connected with the condition of the property as it exists now or in the future.

9. *Condition of Premise.* Lessee hereby acknowledges that it agrees to accept the Property in such condition AS EXISTS WITH ANY AND ALL FAULTS at the time of the execution hereof or afterward. The Lessee shall also pay all costs, expenses and attorneys fees that may be incurred or paid by the Lessors in enforcing the terms and conditions of this Lease, whether incurred as a result of litigation or otherwise.

10. *Insurance:* The Lessee agrees to keep in force at all times during the term hereof, at its own expense, general liability insurance against claims for personal injury or property damage in an amount of at least one million dollars (\$1,000,000.00). Such policy and policies shall name the Lessors and the Lessee as the insured; said policy shall be issued by an insurance company satisfactory to the Lessors. Within ten (10) days after the date hereof, the Lessee shall deliver to the Lessors certificates of insurance certifying that such insurance is in full force and effect.

11. *Surrender of Premises:* If, during the term of this Lease, it is determined by either of the Lessors that any part or portion of the leased premises is needed for park improvement, operation or development in any way, then the Lessors, or either of them, shall give the Lessee notice of the Lessors intention to use the necessary part or portion of the leased premises at any time prior to the end of the calendar year, in which event this Lease shall be terminated as to the property so designated by the Lessors commencing at the end of the lease year. In the event that the County elects to use any part of the property as aforesaid, the rent for the remaining property will be apportioned at the hereinbefore stated charge per acre, pro-rated for the remaining property to be used by the Lessee.

12. *Guidelines and Crop Restrictions:* This Lease is subject to the following guidelines and crop restrictions:

- (a) The Lessors reserve the right to prevent the production of any crop on any or all of the land where the production of such crop would clearly damage the land due to excessive erosion or other causes.
- (b) The Lessee will use fertilization practices which will prevent depletion of the essential plant food elements in the soil.
- (c) The Lessee will provide sufficient quantities of lime and nutrients to keep the land at proper pH and nutrient levels for crop production. The soil was tested in December 2010 and results received on 12/20/10 from A & L Eastern Laboratories. The pH level was reported to range between 5.5 to 6.2 from the samples taken from sites distributed around the two-hundred acre parcel. Soil tests are to be taken and reported annually to the Lessors and the land is to be returned to the same or better pH levels and nutrient levels including; Organic matter, Phosphorus, Potassium, Magnesium, Calcium, Acidity and C.E.C. annually by the lessee.
- (d) The Lessee will not bring any livestock or poultry on the land and will not use any buildings without the express approval of the Lessors.
- (e) No fertilizers or manures may be stored on the property hereby leased without prior permission by lessors. All manure shall be spread and tilled on the same day as delivered to the property unless other storage permission is granted. Fertilization methods must be approved and maintained to comply with the MD Dept. of Agriculture's Nutrient Management Plan.

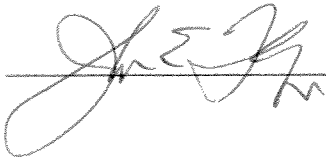
13. *Rules and Regulations:* The Lessee hereby agrees to abide by all rules and regulations as set forth by the Lessors. The Lessee hereby agrees that it will not store equipment on the leased premises unless specifically approved by the Lessors. The Lessee shall make no alterations, installations, additions, or improvements to the leased premises without the Lessors written consent, and then only in a manner and by such persons as may be approved by the Lessors. The cost of all such alterations, installations, additions, or improvements shall be borne by the Lessee.

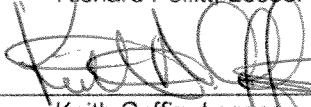
14. *Entry and Inspection:* The Lessee shall permit the Lessors and/or its agents or representatives to enter the herein leased premises at all reasonable times to inspect the same and the improvements thereon and to determine whether the herein leased premises are being properly maintained.

WITNESS, the hands and seals of the parties hereto on the day and year first above written.

ATTEST:

WICOMICO COUNTY, MARYLAND




Richard Pollitt, Lessor (SEAL)


Keith Coffin, Lessor (SEAL)

WITNESS:




BLACK GOLD FARMS, INC


Lessee (SEAL)
Tim W. Williams

TOTAL: \$104,000.00

I have read, understood, and agreed to the terms and conditions of all contents of this BID. The undersigned agrees to furnish the commodity or service stipulated in this BID as stated above.

SIGNATURE: 

NAME: Black Gold Farms, Inc.

COMPANY: Timothy W. Williams

ADDRESS: 5615 Rhodesdale Vienna Road
Rhodesdale, MD 21659

TELEPHONE: 410-943-0544

FAX: 410-943-0546

DATE: 1/5/11

TOTAL: 104,000.00

Single page Addendum or Exceptions to Lease Agreement for Farm Land

West Metro Park/Coffin Property

It is the desire of Lessee that the following language demarked by applicable section, be included and made a part of the Lease agreement.

3. Rent: Lessee has a contractual obligation to pay rent only on irrigated farmland and therefore may calculate rent based on irrigated acres only. Lessee may refer to the land rented as irrigated acres and Wicomico County may stipulate that this lease and any rental payments by Lessee are based solely on the rental of irrigated acres. Lessee understands that it is obligated under the terms of the lease and responsible for the gross acreage but both parties agree that for purposes of Lessee's calculation and reporting of paid rent that that rent shall be for irrigated acres only.

6. (on page 1) Irrigation System: Except that Lessee shall perform a pivot uniformity test to identify any existing deficiencies or problems with the irrigation system and any problems or deficiencies shall be remedied at Lessors sole expense. All repairs shall be complete prior to a date 30 days after potato planting begins on the premises.

8. Condition of Premise: Except for item 6 as referenced above.

9. Insurance: Certificate attached.

10: Surrender of Premises: Except that Lessee shall have the absolute right to harvest any planted crops according to the harvest schedule set by the planting date.

Addendum or Exceptions agreed to and incorporated herein by the parties:



Black Gold Farms, Inc.

Tim Williams, Farm Manager



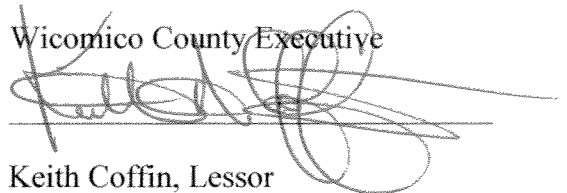
Witness



Witness

Richard Pollitt Jr., Lessor

Wicomico County Executive



Keith Coffin, Lessor



Witness



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
01/03/2011

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

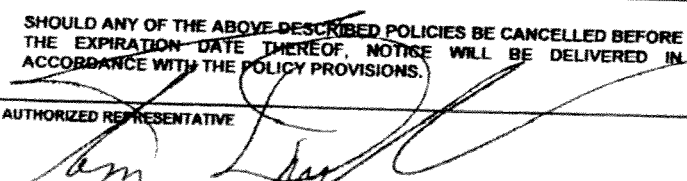
PRODUCER FIRST UNITED INSURANCE 1011 WEST 11TH ST GRAFTON ND 58237		CONTACT NAME: PHONE (A/C, No, Ext): 701-352-1010 FAX (A/C, No): 701-352-1132 E-MAIL ADDRESS: lhouser@fubnd.com	
INSURED BLACK GOLD FARMS 4575 32ND AVE SOUTH SUITE 2A GRAND FORKS ND 58201		INSURER(S) AFFORDING COVERAGE INSURER A: FIREMAN'S FUND-FARM & RANCH INSURER B: ATLANTIC RISK SPECIALISTS, INC INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

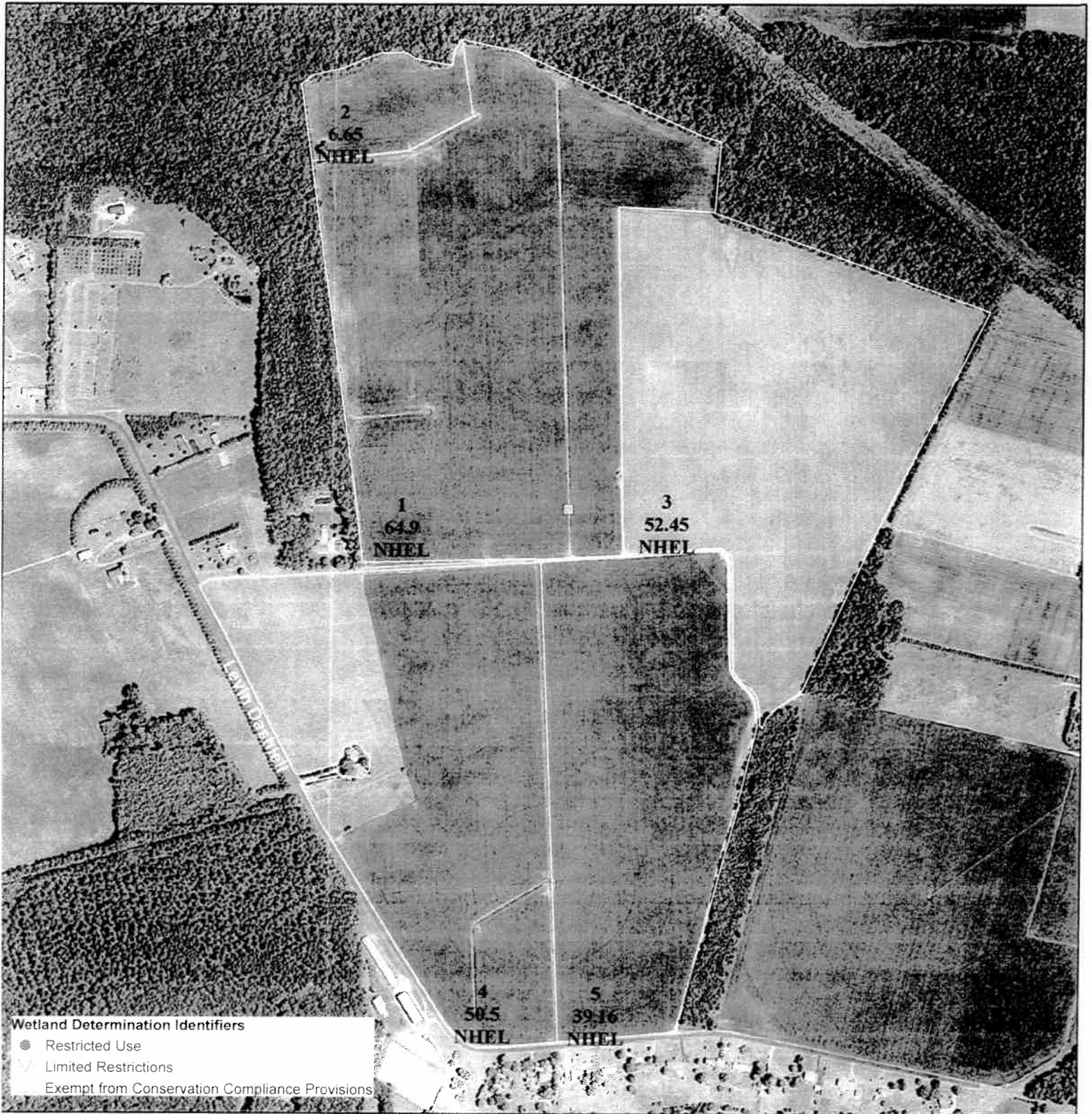
INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR INSR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	N	N	MZX 80915277	02/14/2010	02/14/2011	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPI/OP AGG \$ Fire Damage \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	N	N	MZX 80915277	02/14/2010	02/14/2011	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ 1,000,000 BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	N	WC005319219	04/01/2010	04/01/2011	WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
INCL: RICHARD M POLLITT JR LESSOR WICOMICO CTY EXECUTIVE
INCL: KEITH COFFIN LESSOR

CERTIFICATE HOLDER FREDIRCK HARRIS / PURCHASING AGENT FOR WICOMICO CTY 125 N DIVISION STREET RM 101 SALISBURY MD 21801	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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Map Unit Legend

Wicomico County, Maryland (MD045)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
AsA	Askecksy loamy sand, 0 to 2 percent slopes	3.5	0.8%
FaA	Fallsington sandy loam, 0 to 2 percent slopes	0.2	0.1%
FmA	Fort Mott loamy sand, 0 to 2 percent slopes	127.8	28.5%
FmB	Fort Mott loamy sand, 2 to 5 percent slopes	28.8	6.4%
HnA	Hammonton sandy loam, 0 to 2 percent slopes	1.3	0.3%
HvA	Hurlock sandy loam, 0 to 2 percent slopes	41.7	9.3%
IeA	Ingleside loamy sand, 0 to 2 percent slopes	18.9	4.2%
IeB	Ingleside loamy sand, 2 to 5 percent slopes	26.1	5.8%
KgB	Klej-Galloway complex, 0 to 5 percent slopes	42.1	9.4%
LfA	Lenni sandy loam, 0 to 2 percent slopes	2.1	0.5%
LO	Longmarsh and Indiantown soils, frequently flooded	15.1	3.4%
MuA	Mullica-Berryland complex, 0 to 2 percent slopes	9.2	2.0%
PrA	Pepperbox-Rockawalkin complex, 0 to 2 percent slopes	0.5	0.1%
RKA	Rockawalkin loamy sand, 0 to 2 percent slopes	84.0	18.7%
RkB	Rockawalkin loamy sand, 2 to 5 percent slopes	6.3	1.4%
RoA	Rosedale loamy sand, 0 to 2 percent slopes	1.1	0.3%
RsB	Rundint sand, 2 to 5 percent slopes	19.5	4.3%
RwB	Rundint-Cedartown complex, 2 to 5 percent slopes	20.4	4.5%
Totals for Area of Interest		448.8	100.0%

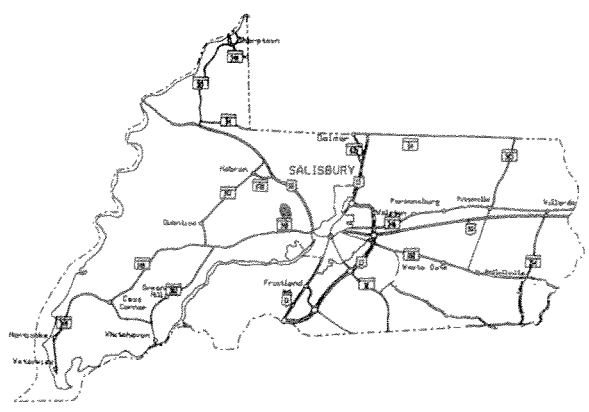
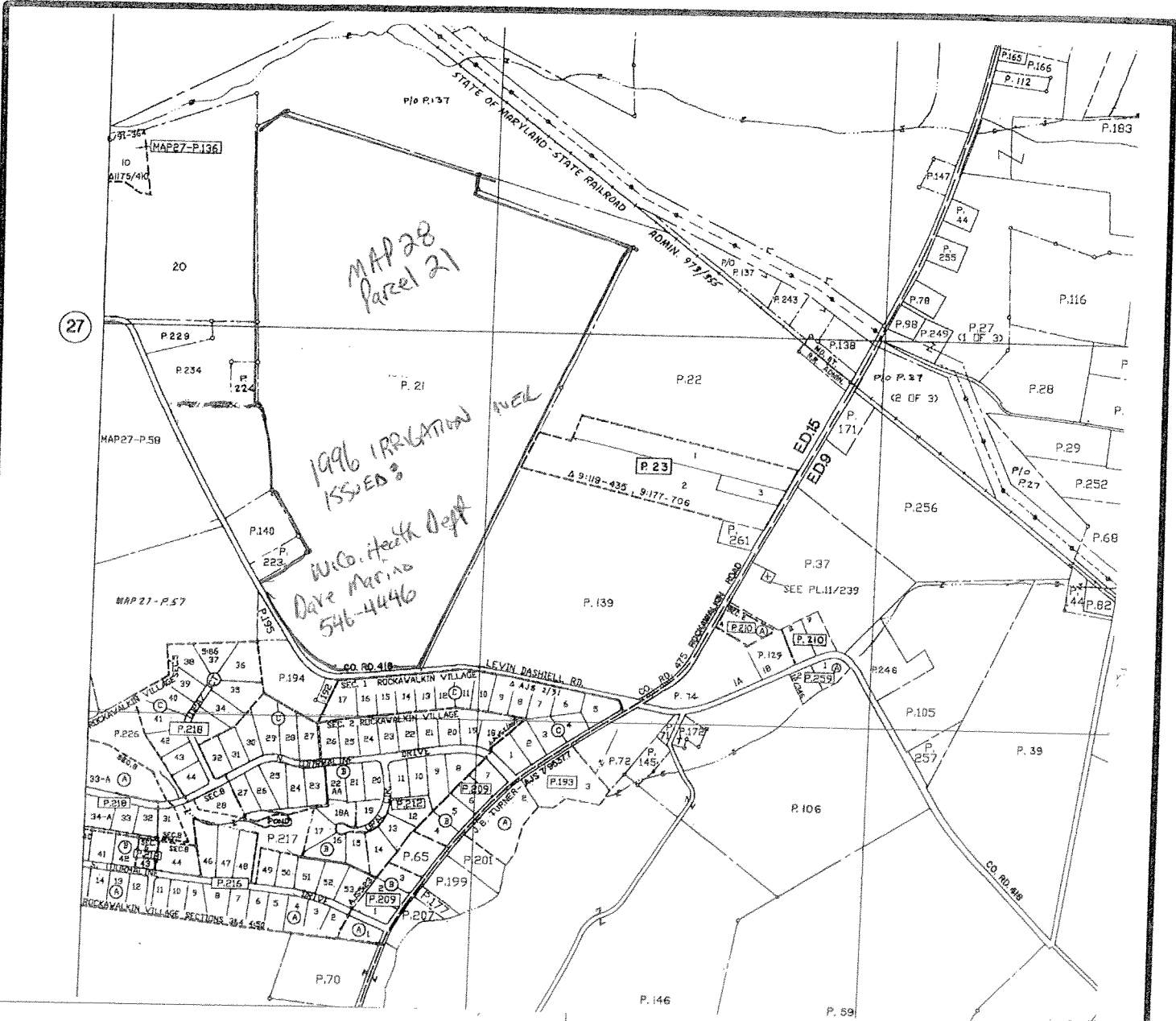


December 22, 2008

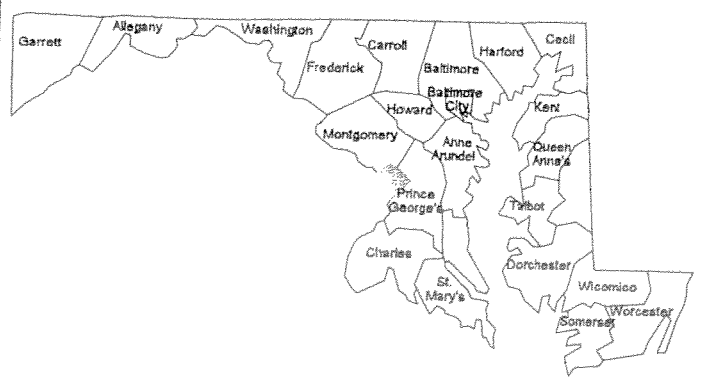
Farm : 1426
Tract : 878

Total Cropland Acres 213.66





Wicomico County



MD Department of Natural Resources
Program Open Space
WEST METRO CORE
PARK ACQUISITION
MAP 28 PARCEL 21