



AGENDA FOR THE TOWN MEETING

February 23rd, 2026
Regular Meeting - 7:00PM

Drought Status- **Code Yellow**

PLEDGE TO THE FLAG

CALL TO ORDER

PUBLIC COMMENT

CONSENT AGENDA

- Town Meeting Minutes
 - [February 5, 2026 – Town Workshop Meeting Minutes^v](#)
 - [February 9, 2026 – Town Board Meeting Minutes^v](#)

UNFINISHED BUSINESS

NEW BUSINESS

- Harris Farm- Using existing Funds for Salt Storage and Security Camera Installation
- [Transferring Funds to our MLGIP Investment Account](#)
- [Foxfield 6- Request for Annexation Agreement Amendment](#)

TOWN ADMINISTRATOR'S REPORT

- Update- Middletown Fireworks 2026

ANNOUNCEMENTS

- Municipal Election 2026- Nominating Convention- February 25, 2026 7:00 PM
- Health Wellness Expo- March 7, 2026, 10:00-2:00 PM, MVVFC Activity Building
- Proclamation- Sustainability Day- March 28, 2026
- Green Expo- March 28, 2026, 10:00 AM-2:00 PM, Middletown Library
- Middletown Municipal Election- Town Hall April 6, 2026, 7:00 AM-8:00 PM

ADJOURNMENT

Lifesize Meeting Invite Information

Join the meeting: <https://call.lifesizecloud.com/11085268>.

Passcode: 21769

Click to call from Mobile (audio only)

United States: +1 (312) 584-2401, 11085268#,21769#

Call in by Phone (audio only)

United States: +1 (312) 584-2401

Meeting extension: 11085268#

Passcode: 21769

Identifies the Number of Times the Item has been on a Town Workshop and/or Town Meeting Agenda

V Identifies a Vote to be taken on the agenda item

*BURGESS AND COMMISSIONERS
OF MIDDLETOWN MARYLAND*

TOWN WORKSHOP MINUTES

February 5, 2026

The workshop of the Burgess and Commissioners of Middletown was called to order on February 5, 2026, by Burgess John Miller at 7:00 p.m. Present were Commissioners Jennifer Falcinelli, Rick Dietrick, Kevin Stottlemeyer, Larry Bussard and Chris Goodman.

PUBLIC HEARING

Ordinance No. 26-01-01 – Billing Connection Fees & Rates Ordinance – The proposed ordinance would remove all dollar amounts currently listed in the town code. These would be provided to residents via the town website. Payment methods were updated to reflect current methods. Late fees for water/sewer bills would change from a percentage to a flat rate. Disconnect fees would increase. Water service can be disconnected for unpaid water bills, failure to adhere to the town’s water conservation plan, failure to respond to a meter change-out notice/broken meter notice, and any violations of any town ordinance relating to Water or sewer services. Water bill estimation was updated. The town requiring an email address and phone number for properties was added.

Burgess Miller opened the public hearing asking the town board if anyone had any questions or comments. There were none. He then asked for public comment.

Becky Myers, 2 Woodmere Circle, at the last meeting proposed water bill adjustments for high water use that does not empty into the sanitary sewer system. They would be granted once every 5 years and she also provided a framework for adjustment calculations. She asked if her proposal could be included in this ordinance. Opposition to this proposal included the number of requests that would occur, staff time and town hydrant meter rentals that are available for those requiring large amounts of water. The use of deduct meters was raised. Frederick County uses deduct meters for commercial accounts only.

This public hearing closed at 7:25pm.

Resolution No. 26-01 – Water/Sewer Billing Fees – The link to the current fee schedule is on the home page of the town website. This resolution is similar but includes the proposed water/sewer billing fees from Ordinance No. 26-01-01. Late fees for water bills would be a flat \$10. Disconnect notifications would be \$20, reconnection is \$50 during office hours, and \$100 for after-hours reconnection. The NSF would increase to \$34 to keep pace with current charges.

Burgess Miller opened the public hearing asking the town board if anyone had any questions or comments. There were none. He then asked for public comment. There was none.

This public hearing closed at 7:28pm.

Motion: Commissioner Falcinelli motioned to approve Ordinance No. 26-01-01 as presented. Seconded by Commissioner Goodman. Motion passed (6-0).

Motion: Commissioner Falcinelli motioned to approve Resolution No. 26-01 as presented. Seconded by Commissioner Bussard. Motion passed (6-0).

Mike Tabor, Church Street Business Center, asked if the water bills could be changed for commercial accounts and list tenants with the breakdown of charges for each so owners could send out to tenants for reimbursement. That is not possible with the current billing software. He then asked if the town would install submeters behind the master meter of the commercial properties and then bill the tenants directly. He was informed that property owners can install submeters and take their own readings to assist with the breakdown of the property's town quarterly bill. The town bills the property owner based on the master meter readings. Staff will research whether Mr. Tabor is charged correctly for the capital improvement fee.

STAFF REPORTS:

Deputy Report – Deputy McCarrick reviewed his report. Including the Sheriff's Department traffic control unit being in Middletown on four occasions in January. They reported that the average speed was 35mph.

Director of Public Works (DPW) Report –Bruce Carbaugh reviewed his report. Middletown is in a 3-year drought. Because of this water/sewer employees are intentionally sending flow to the WWTP to keep the nutrient levels up. Water use is up; staff suspect leaks in the service lines and are looking for them. All wells have been sampled again for PFAS, the town has the results, and they will be posted on the website. Another ENR option to consider is constructing a new wastewater treatment plant on the current site of the dog park. This would mean operating 2 plants and maintaining 2 discharge permits. It was recommended that staff investigate those costs to the town not covered by ENR funding and projected costs for maintenance and operation of that option. The town water and sewer capacity reports are included in his staff report. The town has 84 taps for water available and 319 sewer taps available. This does not include Fox field 6 as they are bringing their own wells.

Staff Planner (SP) Report – JJ Hartner reviewed his report. There are two items on the planning commission agenda for February, the Foxfield 6 improvement plans and an addition plat for 708 East Main Street. FCPS will redline the sidewalk easement for the MS/ES Replacement project. Attorneys are reviewing the MOU. The timeline for the Burnt Bridge Crossing Park RFP was reviewed. Seven zoning certificate applications were received in January. The next meeting of the sustainability committee is February 17th. The planning commission workshop is February 11th.

Main Street Manager Report – Becky Axilbund reviewed her annual report. Copies of the new Middletown brochure were provided for board members. The next business mixer is scheduled for February 17th here at town hall. The Health and Wellness expo is March 7th. There will be heavy advertising for the event as it gets closer. Forty vendors have already registered. Amanda Glenn is a new Main Street board member. She has professional nonprofit fundraising skills.

Finance Officer (FO) Report – The FY25 audit has been submitted to the State. Auditors from DeLeon & Stang will provide a presentation to the town board at the March workshop. An RFP for auditor services for the next 3 years will be sent out soon. The second billing using the new utility billing software has been completed. Residents have been providing email addresses and cell phone numbers for their accounts. The biggest challenge is getting those meters with Itron readers read. The town is working with the vendor on a solution.

Bank accounts have been reconciled through December 2025. The town has \$2,716K in the bank. \$1,700K in the General Fund and 1,016K in the Water/Sewer Fund. ARPA has a balance of \$82,214

which will be used towards the I&I study and construction. Bea quickly reviewed the summary of grants chart included in the meeting packet. Financial statements were reviewed. The new software does not show CIP amounts in the statement. That will be corrected. The FCSO is still invoicing for two deputies. It will be corrected at the end of March. Estimated savings are \$92,000. Town expenses are in line with midyear projections.

Staff reports are included at the end of these meeting minutes.

CONSENT AGENDA:

- **Drought Warning & Status Update** – The DPW reported current monthly usage is 296,003gpd or 205gpm. Current monthly spring yield is 36179gpd. Today it was 23gpm or 33,120gpd. Well levels have dropped. The national drought monitor has Middletown in a severe drought. Staff recommend moving to Code Yellow now and if the town meets the criteria, going to Code Orange in March. The town board agreed by consensus to allow staff to make decisions to go to Code Orange when needed and not wait to bring it before the town board for approval. The town board will be informed immediately if/when it occurs.
- **Town Meeting Minutes**
 - *January 8, 2026 – Workshop Minutes*
 - *January 12, 2026 – Meeting Minutes* – Commissioner Falcinelli noted two spelling corrections.

UNFINISHED BUSINESS

William Moran Electronic Sign Board – The DPW stated the sign does not meet SHA safety requirements when posting street closures, so the town will still rent VMS boards to advertise Main Street closures and corresponding traffic detours related to town events. Staff recommend the town make a small one-time donation (\$1000-\$2000) so that town events can be advertised. An agreement would be signed and town staff trained to load messages.

Proposed Ordinance Amendment – Adjustments to Water/Sewer Bills for Hill Bills (non-leaks) – Please see the minutes from the public hearing earlier in this record.

Funding Timeline for the WWTP ENR Upgrade – Congressionally directed spending funding was confirmed in January at \$470,000. To date the town has \$32,675,577 in confirmed funding for this project.

NEW BUSINESS

Election Procedures – A candidate must have property owner permission to place an election sign on their property. If a person is elected to the town board and is currently a member of one of the town subcommittees, that person must resign their position on the subcommittee. The Middletown Certificate of Candidacy form will be placed on the 2026 municipal election page of the website for potential candidates to review.

Pay for Essential Non-Exempt Workers when Town Offices Close – The personnel committee met earlier this evening to discuss two topics needing clarification: A.) Pay for essential non-exempt employees authorized to work when town offices close for a weather-related emergency, and B.) Pay for employees when town offices close for any non-weather-related reason. After much discussion on both topics the personnel committee recommends the following to the Town Board:

1. When town offices close for weather related emergency event, all employees will be paid for their regular workday, in addition essential non-exempt employees who are authorized to work will be paid time and a half for all actual hours worked.
2. When the Burgess and Commissioners close town offices for any non-emergency reason, employees who reported for work that day will be paid a full day's wages. Any employee on preapproved leave will be paid the hours the offices were open that day using their leave. The workday hours after the offices closed will be paid as normal work hours for those employees as well. They will not have to use leave when the offices are closed.

TOWN ADMINISTRATOR REPORT

FY27 Budget Meeting Dates – The Town Administrator the proposed meeting dates for the FY2027 budget development. The meeting scheduled for May 26th is a budget only meeting date.

ANNOUNCEMENTS

- *Health Wellness Expo- March 7, 2026, 10:00-2:00 PM, MVVFC Activity Building*
- *Proclamation- Sustainability Day- March 28, 2026*
- *Green Expo- March 28, 2026, 10:00 AM-2:00 PM, Middletown Library*

The meeting adjourned at 9:25 pm.

Respectfully submitted,

Annette Alberghini,
Recording Secretary

BURGESS AND COMMISSIONERS OF MIDDLETOWN MARYLAND

TOWN MEETING MINUTES

February 9, 2026

The meeting of the Burgess and Commissioners of Middletown was called to order on February 9, 2026, by Burgess John Miller at 7:00 p.m. Present were Commissioners Jennifer Falcinelli, Rick Dietrick, Kevin Stottlemeyer, Larry Bussard and Chris Goodman.

PUBLIC COMMENT

Rich Gallagher, 23 Woodmere Circle, previously sent an email to Burgess Miller. He summed it up for those in attendance tonight. At a previous planning commission meeting concerning the FCPS collocated school project the question was raised regarding dust control. Residents were told that FCPS would use standard practices. After this last snowstorm the contractor cleared snow from the site. There were warnings for forecasted high winds. As a result of these high winds a large amount of dirt was blown onto neighboring properties on Woodmere Circle. The FCPS project manager was emailed on this topic. He forwarded it to the FCPS Capital Programs Department. The response was that FCPS would continue to meet codes and standards, and to direct any future inquiries to the town. The town has directed residents to send their concerns on the project to FCPS. Those Woodmere Circle residents questions are not being answered and they are at the meeting tonight asking the town for assistance in dealing with FCPS. The town board recommended taking their issues to the Board of Education (BoE). Dean Rose sits on the BoE and has been very responsive in the past. Another recommendation was to contact the county permitting and inspections to register your complaints regarding the dirt.

Becky Myers, 2 Woodmere Circle, stated the FCPS sound study report of the site is using time weighted average measurements of sound on the site. The State, County and Middletown use real time measurements of sound. Mrs. Myers stated FCPS may be applying the wrong standard. The site does exceed decibel levels on site. FCPS should be contacted for clarification.

Judy Wegner, 4 Woodmere Circle, stated that residents were assured on multiple occasions that this would not happen – loud noises, dust, vibrations etc. – but they are occurring. They need to be addressed.

CONSENT AGENDA:

- **Town Meeting Minutes**
 - *January 8, 2026 – Workshop Minutes*
 - *January 12, 2026 – Meeting Minutes –*

Motion: Commissioner Goodman motioned to approve the consent agenda as presented. Seconded by Commissioner Dietrick. Motion passed (6-0).

UNFINISHED BUSINESS

William Moran Electronic Sign Board – The new electronic sign board does not meet SHA safety requirements when posting street closures, so the town will still rent VMS boards to advertise Main Street closures and corresponding traffic detours related to town events. Staff recommend the town make a small one time donation (\$1000-\$2000) so that town events can be advertised. The town board is under the impression that the museum is looking for a large donation. They do not see any benefit to the town.

The town board agreed by consensus to not participate in any financial contribution to the museum's electronic sign.

Pay for Essential Non-Exempt Workers when Town Offices Close – The personnel committee met earlier this evening to discuss two topics needing clarification: A.) Pay for essential non-exempt employees authorized to work when town offices close for a weather-related emergency, and B.) Pay for employees when town offices close for any non-weather-related reason. After much discussion on both topics the personnel committee recommends the following to the Town Board:

1. When town offices close for a weather-related emergency event, all employees will be paid for their regular workday, in addition essential non-exempt employees who are authorized to work will be paid time and a half for all actual hours worked.
2. When the Burgess and Commissioners close town offices for any non-emergency reason, employees who reported for work that day will be paid a full day's wages. Any employee on preapproved leave will be paid the hours the offices were open that day using their leave. The workday hours after the offices closed will be paid as normal work hours for those employees as well. They will not have to use leave when the offices are closed.

Motion: Commissioner Falcinelli motioned to approve the personnel committee's recommendations as presented. Seconded by Commissioner Goodman. Motion passed (6-0).

The Town Administrator requested that the first recommendation would be retroactive to the beginning of the last pay period, since the town offices were closed due to weather.

Motion Amended: Commissioner Falcinelli motioned to amend her previous motion to include that the first recommendation would be retroactive to the beginning of the last pay period. Seconded by Commissioner Goodman. Motion passed (6-0).

FY27 Budget Meeting Dates – The Town quickly reviewed the proposed meeting dates for FY2027 budget development and review.

The town board agreed by consensus to the proposed budget meeting dates.

NEW BUSINESS

Burnt Bridge Crossing Park – Master Plan RFP (Proposed Changes) – The Staff Planner stated that the prebid meeting occurred February 4, 2026. Attendees provided productive feedback and ideas for the town board to consider:

1. That an architectural review and recommendation be requested with this RFP instead of a separate RFP for an architect. This will save time and money and lends itself to a much better project.
2. The town should ask for the proposed cost of a stream study and request several alternatives ranging from very basic to thorough, including costs. The town can then select which option it would like or forgo the stream study altogether.
3. That the sidewalk between Wiles Branch Park and Burnt Bridge Crossing Park be completed to form a loop for walking, running and ease of access between the two parks. This would be a proposal in the plan.
4. That the town provide the exact/or close to exact location of the proposed public art on the property.

5. That the town provide the exact/or close to exact location of the proposed food forest and associated trails to be planted/constructed at this park.

Staff recommend pursuing all suggestions.

The town board agreed by consensus to including the suggestions in the RFP.

REPORT OF COMMITTEES

WATER & SEWER – Commissioner Falcinelli reported: Middletown is now in a Code Yellow status for water conservation. If there is no change the town will move to Code Orange next. Staff is in the process of finding and repairing leaks in the water distribution system. Repairs have been made on Walnut Street and Lombardy Drive. Because of the leaks the reservoir is down 8 feet. It will take some time to recharge. If anyone knows of unexplained leaks or water on property, please contact the town. For January water use was – 295,872 gal., spring flow was – 36,019 gal., EWWTP treated 140,000 gals. and the WWTP treated 166,000 gals. The town received 1.3 inches of rain in January. The capacity reports are complete. The town has 84 water taps available, and 319 sewer taps available.

PUBLIC WORKS – Commissioner Dietrick reported:

The Town staff worked on the pickleball gates, reed bed cutting and snow removal. A sewer line was repaired on Locust St. Miss Utility marking continues. Larch Lane inlet repair was complete A light pole was replaced at the EWWTP. Staff are taking a flagger course and staff continue to prep the fleet for snow. Staff did clear snow on main Street due to parking needs on that area.

SUSTAINABILITY – Commissioner Stottlemeyer reported:

The library has agreed to host the Green Expo this year. The town has been asked to pay for the All-Shred event and animal exhibit for the expo. The committee is in a partnership with the St. Thomas Moore Academy and the Senior Center on some raised bed plantings project. The scouts would assist with it during the summer months when school is not in session. Seeds have been ordered for the native seed library.

PLANNING COMMISSION – Commissioner Bussard reported:

The planning commission has not met for a couple of months. They will be meeting for the planning commission workshop this month.

PARKS AND REC. COMMITTEE – Commissioner Goodman reported:

The committee will meet this month to begin discussion on POS projects. If anyone has ideas, please send them to Commissioner Goodman.

PUBLIC INFORMATION – Commissioner Falcinelli stated there were 4128 individual visits to the town's website. The top 5 pages reviewed were 1. Community Calendar, 2. Business Directory 3. Agendas and Minutes, 4. Meter Calendar and 5. News & Announcements. Residents are reminded to sign up at Citizen Connect on the Town's website to stay up to date with what is going on in town.

TOWN ADMINISTRATOR REPORT

Sidewalk Clearing After Snow Events – Staff would like to change the process for sidewalk clearing violations. Instead of sending letters, staff recommend posting the properties. It would be much more effective and efficient. The town does have the ability to email property owners if that information is in

the utility billing system. There are approximately 1400 emails currently in the system. The town prefers residents and businesses to sign up for email billing. Our new software puts the town more in line with moving to monthly billing. Public work crews and water & sewer crews are working hard in the switch to AMI.

ANNOUNCEMENTS

Burgess Miller took a moment to recognize Commissioner Goodman’s 30 years of service to the Middletown Volunteer Fire Department. It is an amazing accomplishment.

- *2026 Middletown Municipal Election Nominating Convention – February 25, 2026, at 7PM*
- *Health Wellness Expo- March 7, 2026, 10:00-2:00 PM, MVVFC Activity Building*
- *Proclamation- Sustainability Day- March 28, 2026*
- *Green Expo- March 28, 2026, 10:00 AM-2:00 PM, Middletown Library*

The meeting adjourned at 8:08 pm.

Respectfully submitted,

Annette Alberghini,
Recording Secretary

	Interest Rate			Projected FY26 Interest Revenue	Potential Interest Revenue in MLGIP
	1/31/26 Balance	7/31/2025	1/31/2026		
Potential Accounts to Move to MLGIP					
Truist Rainy Day Fund	218,085.81	1.81%	1.06%	3,132.29	8,767.05
MVB - Money Market	320,684.30	1.25%	1.10%	3,799.83	12,891.51
Truist Index - PFAS	152,170.47	1.81%	1.06%	1,072.53	6,117.25
Truist Index - Sludge removal	222,798.31	1.81%	1.06%	3,289.42	8,956.49
Truist Index - I & I	398,979.31	1.81%	1.06%	5,890.54	16,038.97
Total	\$ 1,312,718.20			\$ 17,184.62	\$ 52,771.27

Potential Increase Interest Income \$ 35,586.65

PNC - Capital Account MLGIP \$ 132,229.40 4.33% 4.02%

AMMENDMENT TO ANNEXATION AGREEMENT

This Amendment to Annexation Agreement is made this ___ day of 2026, by and among **FOXFIELD RESIDENTIAL, LLC**, a Maryland Limited Liability Company (the "Owner"), and the **BURGESS AND COMMISSIONERS OF MIDDLETOWN**, a body politic and corporate of the State of Maryland (the "Town").

RECITALS

WHEREAS, Owner is the owner of a parcel of unimproved real estate consisting of 93.9380 acres of land, more or less, which it acquired in its former name of "Admar Construction, Inc." by deed dated September 21, 2001 recorded in the Land Records of Frederick County, Maryland at Liber 2956 folio I 159. Said unimproved real estate (hereinafter referred to as "the Subject Property") is located in Frederick County, Maryland and adjoins and is contiguous to the corporate boundaries of the Town of Middletown; and

WHEREAS, the Town and Owner entered into an Annexation Agreement dated March 19, 2018 ("Annexation Agreement") in order to provide for the orderly development of the Subject Property consistent with the Town's future plans;

WHEREAS, Owner has submitted an Amendment to the Town to request the revisions to the Annexation Agreement as provided herein ("Annexation Amendment Agreement"); and

WHEREAS, the parties have reached an agreement concerning the terms and conditions of the amendment to the Annexation Agreement with respect to such development issues related to the Subject Property water supply.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties hereto, the Town and Owner, for themselves and for their successors and assigns hereby agree as follows:

1. **RECITALS.** The recitals set forth above are incorporated herein by reference.
2. **THE PROPERTY:** The "Subject Property", as referred to herein and in the Owners' Annexation Petition, is defined as that real property consisting of 93.9380 acres of land, more or less, which was conveyed to Owner, in its prior name of "Admar Construction, Inc.", by Deed dated September 21, 2001 recorded in the Land Records of Frederick County, Maryland at Liber 2956, folio 1159. A metes and bounds description of the Subject Property prepared by Catocin Mountain Surveys is attached to the Annexation Agreement.
3. **EFFECTIVENESS CONTINGENCY.** This Annexation Amendment Agreement is expressly contingent on the enactment of a Resolution (hereinafter "the Annexation Amendment Resolution") by the Town annexing the Subject Property into the Town of Middletown and upon the Annexation Amendment Resolution becoming effective either after the passage of the statutorily-required time period or, if the Annexation Amendment Resolution is petitioned to Referendum, then upon approval of the Annexation Amendment Resolution after the Referendum. In the event that the Annexation Amendment Resolution is not enacted or, if enacted, fails to become final and effective, then this Annexation Agreement shall be deemed void *ab initio*, and shall be of no force and effect as if it had never been executed.
4. **RESERVATION OF LEGISLATIVE AUTHORITY.** The execution of this Annexation Amendment Agreement neither implies nor guarantees either legislative or

voter approval or passage of the Annexation Amendment Resolution. This Annexation Amendment Agreement shall not be deemed to inhibit or affect the ability of the Town or its officials from properly performing their legislative functions, including but not limited to, the rejection of and decision to deny approval of the Annexation Amendment Resolution.

5. **WATER IMPACT STUDY.** As of the effective date of this Annexation Amendment Resolution the long-term pump drawdown test has been conducted in accordance with the Town requirements and no further drawdown testing is required by Owner.

6. **WATER WELLS.** Notwithstanding language to the contrary in the Annexation Agreement, Owner may construct the water system in conjunction with the first phase of site development simultaneously and shall complete and have available for use a minimum of two Existing Wells prior to issuance of a building permit of a house on the Subject Property other than the initial model home. No building permits for home construction (excluding the model home) may be granted until two Existing Wells are operational, connected to the Town's water supply system, and all Deeds of Easement have been fully executed and delivered to the Town.

7. **AMENDMENT.** This Agreement may be amended only in writing and with the mutual agreement of the Town and the Owner.

8. **ENFORCEMENT.** This Agreement is enforceable by any legal or equitable means available or applicable, including but not limited to, an action for specific performance, injunction, declaratory judgment or other equitable means or by an action for damages.

9. **ENTIRE AGREEMENT.** This Annexation Amendment Agreement constitutes the entire agreement between the parties, and no other agreement shall be

binding upon the parties unless in writing and signed by the respective parties.

10. BINDING EFFECT. This Agreement shall bind and inure to the benefit of parties hereto, their respective heirs, personal representatives, successors and assigns. The provisions of this Agreement shall be binding upon any subsequent Owners of the Subject Property and shall run with the land.

WITNESS the hands and seals of the parties hereto by their respective authorized representatives.

ATTEST:

FOXFIELD RESIDENTIAL, LLC
a Maryland Limited Liability Company

By: _____ [SEAL]
Edward Wormald, General Manager

ATTEST:

**BURGESS AND COMMISSIONERS
OF MIDDLETOWN**
a body politic and corporate of the
State of Maryland

By: _____ [SEAL]
_John Miller, Burgess

ANNEXATION AGREEMENT

This Annexation Agreement is made this 19th day of MARCH, 2018, by and among **MEMAR CORP.**, a Maryland corporation, [formerly known as “Admar Construction, Inc.” which changed its name to “Memar Corp.” by Articles of Amendment dated March 10, 2006 filed with the Maryland State Department of Assessments and Taxation on March 15, 2006] (the “Owner”), and the **BURGESS AND COMMISSIONERS OF MIDDLETOWN**, a body politic and corporate of the State of Maryland (the “Town”).

RECITALS

WHEREAS, Owner is the owner of a parcel of unimproved real estate consisting of 93.9380 acres of land, more or less, which it acquired in its former name of “Admar Construction, Inc.” by deed dated September 21, 2001 recorded in the Land Records of Frederick County, Maryland at Liber 2956 folio 1159. Said unimproved real estate (hereinafter referred to as “the Subject Property”) is located in Frederick County, Maryland and adjoins and is contiguous to the corporate boundaries of the Town of Middletown; and

WHEREAS, Owner has submitted a Petition for Annexation to the Town requesting that the Subject Property be annexed into the corporate limits of the Town of Middletown and be made a part thereof; and

WHEREAS, the Town and Owner desire to provide for the orderly development of the Subject Property consistent with the Town’s future plans and in an aesthetically pleasing manner, and the Town is not willing to support or approve the requested annexation of the Subject Property unless certain conditions regarding its future development are made a part thereof; and

WHEREAS, the parties have reached an agreement concerning the terms and conditions of the annexation with respect to such development issues such as provision of sewer and water,

open spaces, rights-of-way for future streets, zoning, implementation of town taxes, payment for offsite utility extensions, use of Town water system, and payment of expenses with respect to the annexation and development process.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties hereto, the Town and Owner, for themselves and for their successors and assigns hereby agree as follows:

1. **RECITALS.** The recitals set forth above are incorporated herein by reference.
2. **THE PROPERTY:** The "Subject Property", as referred to herein and in the Owners' Annexation Petition, is defined as that real property consisting of 93.9380 acres of land, more or less, which was conveyed to Owner, in its prior name of "Admar Construction, Inc.", by Deed dated September 21, 2001 recorded in the Land Records of Frederick County, Maryland at Liber 2956, folio 1159. A metes and bounds description of the Subject Property prepared by Catoctin Mountain Surveys is attached to this Annexation Agreement as Exhibit "A". The Subject Property is further shown on a plat entitled "Annexation Plat for Lands of Admar Construction, Inc." prepared by Catoctin Mountain Surveys, Inc. dated May 2003 which plat is attached to this Annexation Agreement as "Exhibit B". Both Exhibit "A" and Exhibit "B" are incorporated by reference herein.
3. **EFFECTIVENES CONTINGENCY.** This Annexation Agreement is expressly contingent on the enactment of a Resolution (hereinafter "the Annexation Resolution") by the Town annexing the Subject Property into the Town of Middletown and upon the Annexation Resolution becoming effective either after the passage of the statutorily-required time period or, if the Annexation Resolution is petitioned to Referendum, then upon approval of the Annexation

Resolution after the Referendum. In the event that the Annexation Resolution is not enacted or, if enacted, fails to become final and effective, then this Annexation Agreement shall be deemed void *ab initio*, and shall be of no force and effect as if it had never been executed.

4. **RESERVATION OF LEGISLATIVE AUTHORITY.** The execution of this Annexation Agreement neither implies nor guarantees either legislative or voter approval or passage of the Annexation Resolution. This Annexation Agreement shall not be deemed to inhibit or affect the ability of the Town or its officials from properly performing their legislative functions, including but not limited to, the rejection of and decision to deny approval of the Annexation Resolution.

5. **GENERAL CONCEPT PLAN.** Owner has undertaken preliminary efforts to establish a general concept plan for the eventual development of the Subject Property. Attached hereto as Exhibit "C" is a schematic drawing of the general concept plan which identifies the proposed development as "Foxfield Section 6". The parties acknowledge and recognize that this is a concept plan only, that it is only to be used as a general reference in this Annexation Agreement, and that the final plans will be subject to further review and approvals in accordance with the Town's subdivision regulations and other ordinances, laws, resolutions and rules.

6. **ZONING.** In its Petition, Owner seeks to have the Subject Property classified for zoning purposes in the Town's R-20 (Residential) District under Title 17 of the Middletown Municipal Code. The Town and Owner recognize, however, that the R-20 zoning classification would allow development of the Subject Property for land uses substantially different than the authorized use and at a substantially higher density than would be allowed under the Frederick County zoning laws and regulations. Because of this inconsistency, *Local Government Article, §4-416(b)*, Annotated Code of Maryland requires that, for 5 years after the effective date of the

Annexation Resolution, no development will be allowed on the Subject Property for land uses substantially different than the authorized use, or at a substantially higher density, not exceeding 50%, than could be granted for the Subject Property under the Frederick County zoning laws and regulations. However, pursuant to *Local Government Article, §4-416(c)*, the Frederick County Council may waive this restriction and give its express approval to permitting the increased level of development.

The Owner and Town, therefore, agree that, concurrent with the adoption of an Annexation Resolution approving the annexation of the Subject Property, the Town shall classify the Subject Property in the Town's R-20 (Residential) District under Title 17 of the Middletown Municipal Code; provided, however, that if the Frederick County Council fails or declines to give its express approval to waive the inconsistency restrictions of *Local Government Article, §4-416(b)*, then for five (5) years from the effective date of the Annexation Resolution, no development will be allowed on the Subject Property for land uses substantially different than the authorized use, or at a substantially higher density, not exceeding 50%, than could be granted for the Subject Property under the Frederick County zoning laws and regulations.

7. **TRAFFIC IMPACT STUDY.** After the effective date of the Annexation Resolution annexing the Subject Property into the Town, a traffic impact study of the Subject Property and the proposed development thereon shall be conducted by a qualified transportation engineer. Owner shall provide a general plan, including the concept plan attached as Exhibit "C", for the eventual development of the Subject Property and for the purpose of determining the level of service on the supporting road networks which will service the development on the Subject Property. The traffic impact study must conclude that the proposed

development plan achieves a level of service grade of "C" or better before Owner may proceed further with its development plans.

Town shall select the engineer or engineering firm to conduct the traffic impact study through its usual bidding process. Upon the Town receiving an estimate for the cost of the study from the engineer or engineering firm selected, Owner shall provide funds in the amount of the estimate to the Town which will hold said funds in escrow pending completion of the traffic impact study. The Town will be solely responsible for paying the engineer or engineering firm for the work performed. In the event that further analysis of revised development plans is required in order to establish a level of service grade of "C" or better and which increases the cost of the estimate, Owner shall provide to the Town additional funds to be held in escrow to cover the additional cost estimate.

8. **DENSITY AND OPEN SPACES.** Owner proposes to develop the Subject Property primarily for residential purposes for active adults. A maximum of One Hundred Forty-eight (148) residential units will be permitted on the Subject Property all of which shall be Adult Active units as defined in Section 17.04.030 of the Middletown Municipal Code, as may be amended from time to time.

These numbers of units are acknowledged by the parties to be maximum numbers, and the eventual number of permitted units may be less as determined to be appropriate by the Town or its reviewing agencies, boards and commissions based upon various development factors such as traffic, water and sewer issues. As part of the development, Owner shall design and construct an Active Adult Community Center for use of residents which shall be no less than twelve hundred (1200) square feet in size, no more than two (2) stories, with at least one interior space or room to hold a maximum of one hundred (100) persons in satisfaction of fire code

requirements, a kitchen facility and all appropriate plumbing and lighting fixtures. If the Adult Community Center is dedicated to the public (Town and/or County), no tap fees will be required for this property.

If it is determined by the Town that this Community Center will be for the use by the entire Town, then the Developer will contribute up to a maximum of \$90,000 toward the building of this facility.

The development on the Subject Property shall include Open Space of at least 9.3 acres which will not include those areas which are wetlands, stormwater management facilities, or forest conservation areas. These Open Spaces shall include pathways and walking trails at least 5 feet in width and surfaced in asphalt or concrete.

9. **WATER IMPACT STUDY.** After the effective date of the Annexation Resolution annexing the Subject Property into the Town, a water hydraulic impact study of the Subject Property and the proposed development thereon shall be conducted by a qualified hydrologist. The purpose of the impact study is to determine the impact that the development of the Subject Property will have on water pressure and fire flow and long-term well capacity capabilities to the Subject Property and to neighboring and adjacent properties. The results of the study must determine and conclude that, upon completion and full occupancy of the development, the units in the development and in all neighboring and adjacent properties serviced by the Town municipal water system will have at least fifty (50) pounds per square inch (psi) of water pressure and that any lesser pressure is not or will not be causally related to the development of the Subject Property. Owner will also conduct a long-term pump drawdown test to verify the capacity of the raw water wells on the property. Owner may modify its proposed development plans in order to obtain such result; however, until such time as the water impact

study determines that this requirement will be met, Owner may not proceed further with its development plans.

Town shall select an engineering firm to conduct the water impact study by its usual bidding process. Upon the Town receiving an estimate for the cost of the study from an engineering firm with significant experience in water system modeling, Owner shall provide funds in the amount of the estimate to the Town which will hold said funds in escrow pending completion of the water impact study. The Town will be solely responsible for paying the hydrologist for the work performed. In the event that further analysis is required in order to determine whether the water pressure requirements can be met and which increases the cost of the estimate, Owner shall provide to the Town additional funds to be held in escrow to cover the additional cost estimate.

10. **WATER WELLS.** There are six (6) high-yield production wells located on the Subject Property with the following well tag identification numbers: FR-94-3449, FR-94-3450, FR-94-3451, FR-94-3452, FR-94-5112, and FR-94-5129 (hereinafter referred to as "the Existing Wells"). To the extent not already completed, Owner shall develop the Existing Wells in accordance with applicable County, State and Federal laws and regulations so as to establish and produce a potable high-yield water supply from the Existing Wells. Owner shall apply for and obtain all necessary permits from the Maryland Department of the Environment and any other governmental entity or agency as may be required for such wells. At Owner's expense, the Existing Wells shall be connected to the Town's public water system by appropriate pipes, lines, valves and other typical equipment necessary for such connections. Town shall be entitled to receive all of the water from the Existing Wells for incorporation into the Town's public water supply.

Owner shall subdivide an area of land on which each of the Existing Wells are located of approximately twenty feet by twenty feet (20' x 20') in size and convey such land and the improvements thereon, in fee simple, to the Town. The precise location of the area of land to be conveyed shall be as agreed to by and between the parties. In addition, Owner shall grant to the Town any easements across the Subject Property that may be necessary for access, ingress and egress to and from the Existing Wells and for construction, installation, maintenance, replacement and removal of water lines and other equipment between the Existing Wells and the water lines of the Town's system. Owner shall execute such written and recordable Deeds of Easement to evidence such easements. Owner shall complete and have available for use such well(s) prior to the installation of utility improvements on the Subject Property. No building permits for development of the Subject Property may be granted until the Existing Wells are operational, connected to the Town's water supply system, and all Deeds of Easement have been fully executed and delivered to the Town.

11. **SEWER.** The sanitary sewer disposal systems and lines on the Subject Property shall be connected to the Town's municipal sanitary sewer system. The Subject Property shall be developed using gravity-flow sewer service only, and no sewer pump stations, grinder pumps or similar types of mechanical pumping equipment shall be used in connection with sewer service on the Subject Property except as provided by the Town. Owner shall be solely responsible for obtaining any required easements that may be necessary to connect the sewer lines and system on the Subject Property to the Town's municipal sanitary sewer system.

12. **ROADS.** As shown on the attached Concept Plan (Exhibit "C"), Owner anticipates having a road constructed along the southern portion of the Subject Property to extend from Coblenz Road on the east to the western boundary of the Subject Property. The

parties acknowledge that the precise location of this road will be determined as part of the development process; however, regardless of the eventual location of this road, Owner agrees that it will construct a road to Town standards which will traverse the Subject Property and that it will complete the road, including paving, curb and gutter, the entire distance from Coblenz Road to the western boundary of the Subject Property. The Town anticipates that, in the future, this road will be extended from the western boundary of the Subject Property and across adjacent property to connect with Route 17 to the west. Consequently, the purpose of having the road fully constructed is to establish visibly that a road extends the entire distance to the western boundary and does not terminate at a point of intersection with one or more other roads to be constructed on the Subject Property.

The aforementioned road shall be constructed with a dual entrance at Coblenz Road such that there is one lane of road from which to enter the Subject Property and one lane of road from which to exit the Subject Property, each lane divided by a vegetative median strip of at least twenty (20) feet in width. The dual entrance shall extend from Coblenz Road into the Subject Property a distance of no less than sixty, (60) feet.

In addition, the Owner shall install a walkway along the Middletown (County) Park from the entrance of the park to the subdivision.

13. **PROPERTY TAXES.** Pursuant to Section 8-209 et seq. of the Tax Property Article of the Annotated Code of Maryland, the Town agrees to assess the Subject Property as agricultural land for all portions of the Subject Property for which site plans have not been submitted.

14. **COST AND EXPENSES OF ANNEXATION.** The parties agree that the costs and expenses of annexation, including the Town's attorney's fees and advertising with respect to

the annexation of the Subject Property, shall be the sole cost and expense of the Owner and at no cost to the Town.

15. **AMENDMENT.** This Agreement may be amended only in writing and with the mutual agreement of the Town and the Owner.

16. **ENFORCEMENT.** This Agreement is enforceable by any legal or equitable means available or applicable, including but not limited to, an action for specific performance, injunction, declaratory judgment or other equitable means or by an action for damages.

17. **ENTIRE AGREEMENT.** This Annexation Agreement constitutes the entire agreement between the parties, and no other agreement shall be binding upon the parties unless in writing and signed by the respective parties.

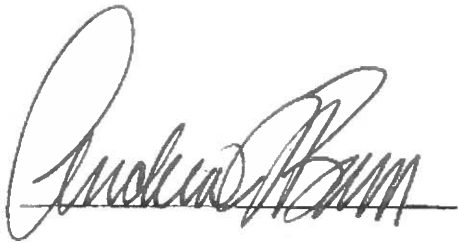
18. **WITHDRAWAL OF ANNEXATION.** Owner reserves the right to withdraw the annexation petition for the Subject Property at any time prior to the effective date of the Annexation Resolution.

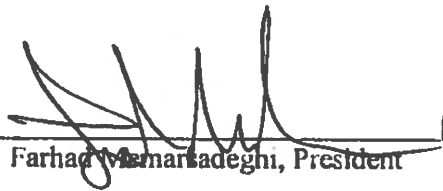
19. **BINDING EFFECT.** This Agreement shall bind and inure to the benefit of parties hereto, their respective heirs, personal representatives, successors and assigns. The provisions of this Agreement shall be binding upon any subsequent Owners of the Subject Property and shall run with the land.

WITNESS the hands and seals of the parties hereto by their respective authorized representatives.

ATTEST:

MEMAR, CORP.
a Maryland Corporation
[formerly known as Admar Construction, Inc.]

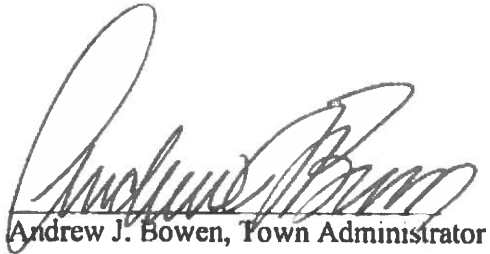


By:  [SEAL]
Farhad Vismaradeghi, President

ATTEST:

**BURGESS AND COMMISSIONERS
OF MIDDLETOWN**

a body politic and corporate of the
State of Maryland



Andrew J. Bowen, Town Administrator

By:  [SEAL]
John D. Miller, Burgess

EXHIBIT A

CATOCTIN MOUNTAIN SURVEYS, INC

845 HORNE'S NEST ROAD

EMMISBURG, MD 21727

PHONE 301-467-3044

FAX 301-467-8444

LANDS OF
ADMAR CONSTRUCTION, INC.
LIBER 2958 FOLIO 1158

Situated East of Coblenz Road, in the Middletown Election District No. 3, Frederick County, Maryland, and being more particularly described as follows:

Beginning at rebar and cap#8844 found being the northeast most property corner of a parcel of land conveyed from Charles W. Coblenz and Margaret H. Coblenz, his wife, and Charles W. Coblenz, Jr. and Ardell S. Coblenz, his wife unto the Board of Education of Frederick County by deed dated December 20, 1967 and recorded at liber 777 folio 321, said point also being the southeast most corner of a parcel of land conveyed from Lorenzo C. Lighter and Ida E. Lighter, his wife unto Russell P. Wiles and Letha A. Wiles, his wife by deed dated April 2, 1932 and recorded at liber 382 folio 289, said point also being the point of beginning of a parcel of land conveyed from BGS Joint Venture and BGS LLP unto Admar Construction, Inc. by deed dated September 21, 2001 and recorded at liber 2958 folio 1158 among the land records of Frederick County, Maryland, thence running with and containing the above mentioned lands of Admar Construction, Inc. the twenty-four (24) following courses and distances, corrected as now surveyed, the first being, and also running with and binding on the above mentioned lands of Russell P. & Letha A. Wiles, the following course and distance

1. N 13° 14' 42" E 532.98' to a rebar and cap#8844 found, said point being the found at the end of the thirteenth (13th) line as described in a deed of easement for a parcel of land conveyed unto the State of Maryland, to the use of the Department of Agriculture on behalf of the Maryland Agricultural Land Preservation Foundation dated March 8, 2001 and recorded at liber 2935 folio 165, thence running with and binding on the above mentioned parcel, reversed, the following five (5) courses and distances, the first being
2. N 13° 13' 41" E 275.88' to a point, thence
3. N 12° 23' 33" E 615.21' to a rebar and cap#8844 found, thence
4. S 87° 18' 52" E 831.35' to a P.K. nail found in the top of a corner fence post, thence
5. N 10° 11' 11" E 508.19' to a rebar and cap#8844 found, thence
6. S 87° 02' 43" E 571.03' to a rebar found, said rebar being the found at the end of the N 77° 36' 58" W 721.56' line as shown on a plat entitled "Farm Lot Plat, Mid-Valley Farm", recorded at Plat Book 27 Page 85, thence running with and binding on the above mentioned plat, reversed, the following course and distance
7. S 88° 38' 58" E 721.53' to stone found, said stone being the found at the end of the N 11° 45' 50" W 58.00' line of Lot 305 as shown on a plat entitled "Final Plat, Section III - Lots 304, 305, 307, Addition Plat, Parcel 'E' P/O 2593/741 - Parcel 4 Addition to 2593/741 - Parcel 3, Parcel 'F' P/O 2593/741 - Parcel 4 Addition to 2593/741 - Parcel 3, Valley View Estate", recorded at Plat Book 72 Page 188, and also described as the Third parcel of land as conveyed from Branch Banking and Trust Company, trustee of the Robert D. Crouch Self Directed IRA unto Omeritach Brothers, Inc. by deed dated June 11, 2002 and recorded at liber 3180 folio 361, thence running with and

binding on the above mentioned Third parcel, and also with the sixth parcel as described in the above mentioned deed, reversed, the following two (2) courses and distances, the first being

8. S 13° 22' 24" E 567.97' to a point, thence
9. S 07° 52' 33" W 178.48' to a rebar and cap#8844 found at the end of the N 07° 53' 01" E 61.54' or "L-1" line as shown on a plat entitled "Addition Plat, House Parcel 'A' Addition to Foxfield at Middletown, Section I -- Lot 1, previously recorded in Plat Book 49 Page 144, Foxfield at Middletown", recorded at Plat Book 62 Page 7, thence running with and binding on the above mentioned plat, reversed, the following course and distance
10. S 07° 52' 33" W 51.48' to an iron pipe found at the end of the N 68° 45' 28" E 378.88' line of Lot 1, as shown on a plat entitled "Agricultural Cluster Subdivision, Final Plat, Section I, Lots 1 to 5, Parkland Hills", recorded at Plat Book 46 Page 77, thence running with and binding on the above mentioned plat, reversed, the six (6) following courses and distances, the first being
11. S 68° 45' 39" W 378.97' to a point, thence
12. S 09° 42' 25" W 60.00' to a rebar & cap#8844 found, thence
13. S 15° 18' 12" W 197.04' to a rebar & cap#8844 found, thence
14. S 52° 01' 55" W 104.02' to a rebar & cap#8844 found, thence
15. S 18° 23' 16" E 189.29' to a rebar & cap#8844 found, thence
16. S 09° 42' 25" W 150.00' to a rebar found disturbed at the end of the S 80° 17' 48" E 60.00' line as shown on a plat entitled "Addition Plat, Section I Lot 5, Parkland Hills Subdivision", recorded at Plat Book 61 Page 111, thence running with and binding on the above mentioned plat reversed, the three (3) following courses and distances, the first being
17. N 80° 17' 35" W 60.00' to a rebar & cap#93 found, thence
18. S 09° 42' 25" W 150.00' to a rebar & cap#93 found, thence
19. S 80° 17' 35" E 60.00' to a rebar found at the end of the N 80° 17' 48" W 300.00' line of Lot 5, as shown on a plat entitled "Agricultural Cluster Subdivision, Final Plat, Section I, Lots 1 to 5, Parkland Hills", recorded at Plat Book 46 Page 77, thence running with and binding on the above mentioned plat reversed, the following course and distance
20. S 80° 17' 35" E 300.00' to a rebar and cap#8844 found on the N 09° 42' 12" E 972.62' right of way line for Coblenz Road as shown on a plat entitled "Agricultural Cluster Subdivision, Final Plat, Section I Lots 1 to 6, Foxfield at Middletown", recorded at Plat Book 43 Page 157, thence running with and binding on the above mentioned plat and right of way, reversed, the three (3) following courses and distances, the first being
21. S 09° 41' 33" W 482.62' to a point, thence
22. N 80° 18' 27" W 5.00' to a point, thence
23. S 09° 41' 33" W 74.85' to a point on the S 77° 28' 01" E 2320.98 line as shown on a plat entitled "Boundary Survey Farmland, Farm Lot No. 1 Gaver Farm Lot", recorded at Plat Book 26 Page 170, thence running with and binding on the above mentioned plat, reversed, the following course and distance

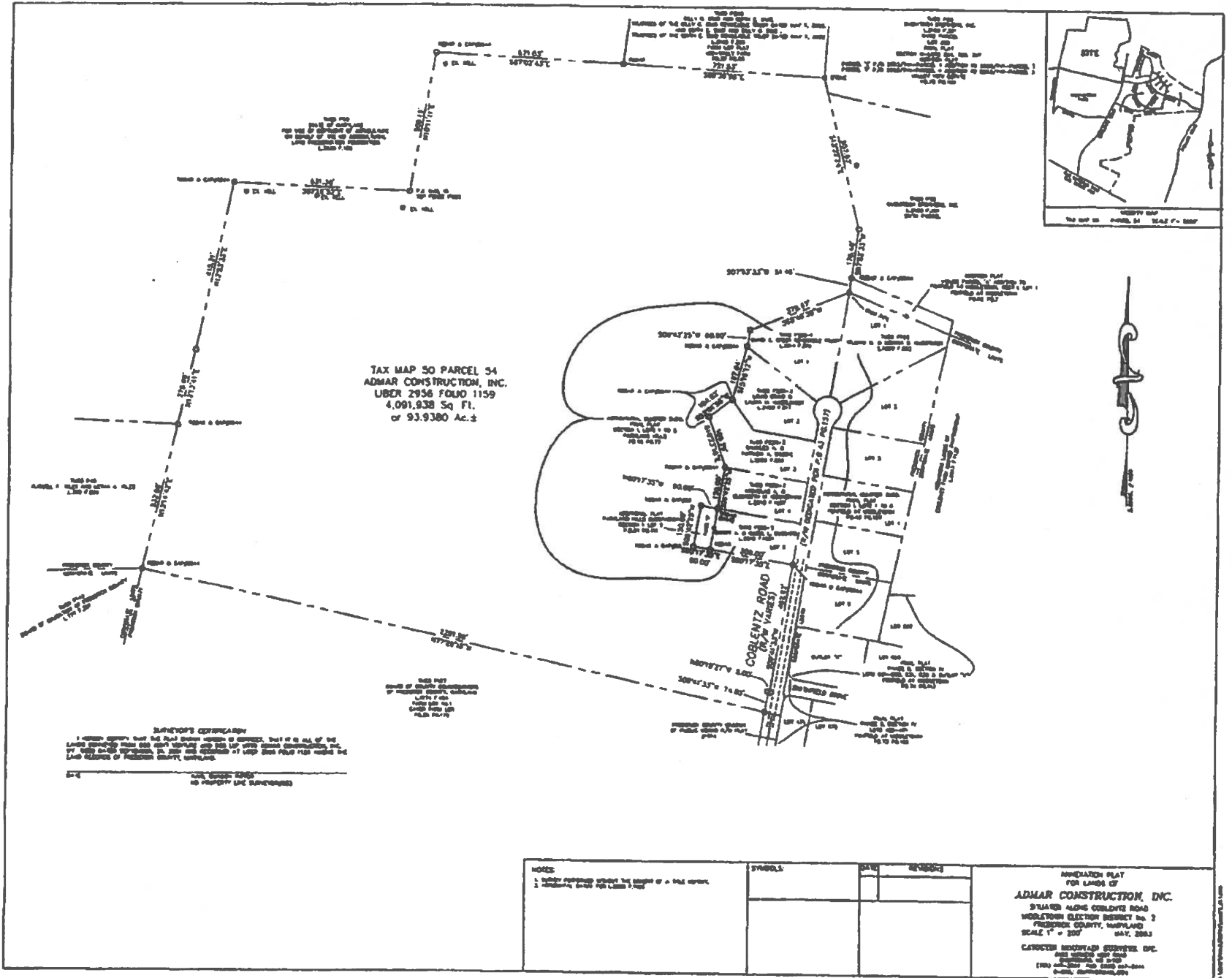
May 20, 2003

24. N 77° 29' 16" W 2291.98' to the point of beginning

Containing 4,081,938 square feet or 93.9380 acres of land more or less

Being all of the lands conveyed from BGS Joint Venture and BGS LLP unto Admar Construction, Inc. by deed dated September 21, 2001 and recorded at liber 2858 folio 1189 among the land records of Frederick County, Maryland

EXHIBIT B



SURVEYOR'S CERTIFICATION
 I, the undersigned, being a duly qualified and licensed surveyor in the State of Maryland, do hereby certify that the foregoing is a true and correct copy of the original field notes and computations on which this map is based, and that the same have been carefully examined and found to be correct in all particulars.

 DATE: _____
 SURVEYOR: _____

NOTES: 1. ALL DISTANCES GIVEN ARE IN FEET AND DECIMALS THEREOF. 2. ALL BEARINGS ARE TRUE BEARINGS.	SYMBOLS: 	DATE: 	REFERENCE:
		APPENDIX PLAN FOR LANDS OF ADMAR CONSTRUCTION, INC. STRAVER ALONG COBLENTZ ROAD HIGHTSTOWN ELECTION DISTRICT No. 2 PISCATAWAY COUNTY, MARYLAND SCALE 1" = 200' MAY, 2003 CATYCEAN SURVEYING SERVICES, INC. 4000 WOODBURN ROAD PISCATAWAY, MD 21113 (301) 486-2200 FAX (301) 486-2204 www.catsycean.com	

