

COUNTY COUNCIL OF PRINCE GEORGE’S COUNTY, MARYLAND
2009 Legislative Session

Resolution No. CR-82-2009
Proposed by The Chairperson (by request – County Executive)
Introduced by Council Member Bland
Co-Sponsors _____
Date of Introduction November 3, 2009

RESOLUTION

1 A RESOLUTION concerning

2 Brandywine Crossing Development District

3 For the purpose of designating a contiguous area within Prince George’s County, Maryland (the
4 “County”) as a “development district” as that term is used in Sections 12-201 through 12-213,
5 inclusive, of the Economic Development Article of the Annotated Code of Maryland, as
6 amended (the “Tax Increment Financing Act”), such development district to be located in an
7 unincorporated area of the County known as Brandywine, Maryland and to be known as the
8 “Brandywine Crossing Development District;” providing for, and determining, various matters in
9 connection with the establishment of a development district, creating a tax increment fund with
10 respect to the development district, and allocating certain property taxes with respect to the
11 development district to be paid over to the tax increment fund as provided in the Tax Increment
12 Financing Act; making certain findings and determinations with respect to the tax increment
13 fund and the uses of such fund; providing that special obligation bonds may be issued from time
14 to time pursuant to an ordinance or ordinances enacted in accordance with the Tax Increment
15 Financing Act and secured by the tax increment fund; and generally relating to the Brandywine
16 Crossing Development District.

17 WHEREAS, the Tax Increment Financing Act constitutes those provisions of Maryland law
18 authorizing the County to establish a “development district” (as that term is used in the Tax
19 Increment Financing Act) and a tax increment fund into which the taxes representing the levy on
20 the Tax Increment (hereinafter defined) for the Development District (hereinafter defined) are
21 deposited; and

22 WHEREAS, the developer of the real property in the proposed Brandywine Crossing

1 Development District plans to construct the next phase of a retail and commercial project known
2 as Brandywine Crossing; and

3 WHEREAS, such development will further economic development within the County and
4 thus meet the public purposes contemplated by the Tax Increment Financing Act; and

5 WHEREAS, the Tax Increment Financing Act authorizes the County to issue special
6 obligation bonds from time to time for the purpose of providing funds to be used to fulfill one or
7 more of the purposes of said Act; and

8 WHEREAS, the County expects to issue special obligation bonds in one or more series to
9 finance parking facilities, road improvements, storm water management facilities, utilities,
10 lighting and related infrastructure improvements; and

11 WHEREAS, if the County issues its special obligation bonds upon enactment of an
12 ordinance or ordinances such ordinance or ordinances will provide that the special obligation
13 bonds shall be secured by a pledge of the taxes representing the levy on the Tax Increment (the
14 “County Taxes”) and any other revenues pledged by the County as more specifically provided
15 for therein.

16 SECTION 1. NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince
17 George’s County, Maryland, that for the purposes of this Resolution, the terms defined in the
18 recitals shall have the meanings therein set forth and, in addition, the following terms shall have
19 the meanings set forth below:

20 (1) “Adjusted Assessable Base” means the fair market value of real property that
21 qualifies for a farm or agricultural use under Section 8-209 of the Tax-Property Article, without
22 regard to the agricultural use assessment for the property as of January 1 of the year preceding
23 the effective date of the resolution creating the Development District under Section 12-203 of the
24 Tax Increment Financing Act.

25 (2) “Assessable Base” means the total assessable base, as determined by the
26 Supervisor of Assessments, of all real property subject to taxation in the Development District.

27 (3) “Assessment Ratio” means a real property tax assessment ratio, however
28 designated or calculated, that is used under applicable general law to determine the Assessable
29 Base including the assessment percentage as provided under § 8-103(c) of the Tax-Property
30 Article.

31 (4) “Bonds” includes any revenue bonds or bond, note or notes, or other similar

1 instruments or instrument issued by the County pursuant to and in accordance with this
2 Resolution and the Tax Increment Financing Act.

3 (5) "Development District" means the contiguous area in the County designated in
4 Section 3 of this Resolution as a development district under the Tax Increment Financing Act.

5 (6) "Original Assessable Base" means the Assessable Base as of January 1 of the year
6 preceding the effective date of this Resolution, which is January 1, 2008.

7 (7) "Original Full Cash Value" means the dollar amount that is determined by
8 dividing the Original Assessable Base by the Assessment Ratio used to determine the Original
9 Assessable Base.

10 (8) "Original Taxable Value" means, for any Tax Year, the dollar amount that is:

11 (a) The Adjusted Assessable Base, if an Adjusted Assessable Base applies; or

12 (b) In all other cases, the lesser of:

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

15 (ii) The Original Assessable Base.

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

19 (10) "Tax Increment Fund" means the tax increment fund established in Section 5 of
20 this Resolution.

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

23 SECTION 2. BE IT FURTHER RESOLVED, that acting pursuant to the Tax Increment
24 Financing Act, it is hereby found and determined that the establishment of the Development
25 District, the creation of the Tax Increment Fund and the present intent to issue Bonds from time
26 to time pursuant to the Tax Increment Financing Act, all for the purpose of providing funds to
27 finance the costs of certain parking facilities, road improvements, storm water management
28 facilities, utilities, lighting, and related infrastructure improvements accomplishes the public
29 purposes of the Tax Increment Financing Act, and generally promotes the health, welfare and
30 safety of the residents of the State of Maryland and of the County.

31 SECTION 3. BE IT FURTHER RESOLVED, that a contiguous area of the County

1 consisting of the property set forth on Exhibit A attached hereto is hereby designated as a
2 “Development District” (to be known as the “Brandywine Crossing Development District”)
3 pursuant to Section 12-203 of the Tax Increment Financing Act. The Development District shall
4 consist of the property described in Exhibit A of this Resolution and all adjoining roads,
5 highways, alleys, rights of way and other similar property in order to form a contiguous area as
6 shown on the plat attached hereto as Exhibit B and submitted to the County Council together
7 with this Resolution. The boundaries of the Development District may be further specified or
8 modified prior to and after the issuance of the Bonds as provided in Section 4 of this Resolution.

9 SECTION 4. BE IT FURTHER RESOLVED, that prior to the issuance of the Bonds, the
10 County Executive may, by executive order, reduce or enlarge the boundaries of the Development
11 District by not more than two acres or further specify the description of such boundaries. After
12 the issuance of the Bonds, the County Executive, by executive order, may enlarge the boundaries
13 of the Development District but may not reduce the size of such District so long as there are any
14 Bonds outstanding pursuant to the Tax Increment Financing Act and this Resolution, unless the
15 ordinance with respect to such Bonds permits the County to reduce the area constituting the
16 Development District or the holders of the Bonds or a representative on their behalf consents to
17 any such reduction.

18 SECTION 5. BE IT FURTHER RESOLVED, that there is hereby established a special
19 fund to be designated the “Brandywine Crossing Development District Tax Increment Fund” (the
20 “Tax Increment Fund”) with respect to the Brandywine Crossing Development District and the
21 County Executive, Chief Administrative Officer and the Financial Officer of the County are
22 hereby directed and authorized to deposit in such Tax Increment Fund all taxes received by the
23 County for any Tax Year commencing after the effective date of this Resolution equal to that
24 portion of the taxes payable to the County (but not including any taxes payable to the State of
25 Maryland or to any other party) representing the levy on the Tax Increment that would normally
26 be paid to the County. The County Executive, the Chief Administrative Officer and the
27 Financial Officer and other officers and employees of the County, to the extent applicable, are
28 hereby authorized to take all necessary steps in order to establish a separate fund to be held by
29 the County. Prior to the issuance of the Bonds the Tax Increment Fund may be used by the
30 County for any of the purposes set forth in Section 12-209 of the Tax Increment Financing Act,
31 including payments to the County for any legal purpose.

1 SECTION 6. BE IT FURTHER RESOLVED, that Bonds may be issued from time to time
2 pursuant to an ordinance or ordinances enacted in accordance with the Tax Increment Financing
3 Act for the purpose of providing funds for the financing of certain parking facilities, road
4 improvements, storm water management facilities, utilities, lighting and related infrastructure
5 improvements. Such ordinance or ordinances shall specify, in general detail, the improvements
6 to be financed through the issuance of the Bonds and the nature and extent of any pledge of
7 County revenues for the payment of debt service on the Bonds, and shall otherwise conform to
8 the applicable requirements of the Tax Increment Financing Act and this Resolution.

9 SECTION 7. BE IT FURTHER RESOLVED, that the County hereby covenants and
10 pledges that if any Bonds issued under the Tax Increment Financing Act with respect to the
11 Development District are outstanding, the property taxes on real property within the
12 Development District shall be divided so that (i) that portion of the taxes which would be
13 produced by the rate at which taxes levied each year by the County upon the Original Taxable
14 Value shall be allocated to and when collected paid into the funds of the County in the same
15 manner as taxes by or for the County on all other property are paid and (ii) that portion of the
16 taxes representing the levy on the Tax Increment that would normally be paid to the County (but
17 not including any taxes payable to the State of Maryland or to any other party) shall be paid into
18 the Tax Increment Fund established hereunder to be applied in accordance with the provisions of
19 Section 12-209 of the Tax Increment Financing Act. The County acknowledges that neither the
20 rate at which taxes are levied on real property within the Development District nor the manner of
21 assessment of the value of real property within the Development District is to vary from the rate
22 or manner of assessment that otherwise would have applied if the Development District were not
23 designated and the Tax Increment Fund not created, except to the extent that a specific valuation
24 adjustment is mandated by the Tax Increment Financing Act for real property that qualifies for
25 farm or agricultural use.

26 SECTION 8. BE IT FURTHER RESOLVED, that the provisions of this Resolution are
27 severable, and if any provision, sentence, clause, section or part hereof is held or determined to
28 be illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such
29 illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the
30 remaining provisions, sentences, clauses, sections or parts of this Resolution or their application
31 to other persons or circumstances. It is hereby declared to be the legislative intent that this

1 Resolution would have been passed if such illegal, invalid, unconstitutional or inapplicable
2 provision, sentence, clause, section or part had not been included herein, and as if the person or
3 circumstances to which this Resolution or any part hereof are inapplicable had been specifically
4 exempted herefrom.

5 SECTION 9. BE IT FURTHER RESOLVED, that this Resolution is administrative in
6 nature and shall take effect upon approval by the County Executive.

Adopted this 10th day of November, 2009.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Marilynn M. Bland
Chairperson

ATTEST:

Redis C. Floyd
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Jack B. Johnson
County Executive

EXHIBIT A

DESCRIPTION OF THE PARCELS

Available as an Inclusion File in LIS

EXHIBIT B

PLAT

Available as an Inclusion File in LIS