

RESOLUTION ADOPTED

NUNC PRO TUNC

A RESOLUTION TO AUTHORIZE THE ACQUISITION, BY VOLUNTARY CONVEYANCE OR CONDEMNATION, OF A 44-ACRE TRACT OF LAND BEING A PORTION OF THE 164 ± ACRES OF REAL PROPERTY COMMONLY KNOWN AS THE "JACKSONS" TRACT, 4085 CENTERVILLE ROAD IN JAMES CITY COUNTY, OWNED BY SALLIE ARMISTEAD WILSON, MARY ARMISTEAD HOGGE AND R. TRAVIS ARMISTEAD, JR. AS INDIVIDUALS AND/OR AS SUCCESSOR TRUSTEES UNDER THE DEED AND TRUST AGREEMENT DATED DECEMBER 27, 1970 AND MADE BY ROBERT T. ARMISTEAD AND SARAH H. ARMISTEAD, AND LETITIA A. HANSON AND MICHAEL J. CAVANAUGH, TRUSTEES UNDER THE LETITIA ARMISTEAD HANSON REVOCABLE TRUST, FOR PUBLIC

PURPOSES, TO WIT:

CONSTRUCTION OF AN ELEMENTARY SCHOOL

- WHEREAS, the Williamsburg-James City County Public Schools ("Schools") needs to construct an eighth elementary school in order to meet the needs of the growing community; and
- WHEREAS, the Schools and the County of James City, Virginia ("County") have determined that the 44-acre tract of hereinafter described property is the necessary and proper location for a new elementary school; and
- WHEREAS, on December 13, 2005 the Board of Supervisors of James City County adopted a Resolution authorizing the acquisition of the same property by voluntary conveyance or condemnation ("Initial Resolution"); and
- WHEREAS, the Initial Resolution identified the owners of the hereinafter described property as Sarah H. Armistead, Trustee/Executor, Letitia A. Hanson, and Michael J. Cavanaugh, Trustees under the Letitia Armistead Hanson Revocable Trust and further stated that the County may proceed against any successors in title; and
- WHEREAS, prior to filing the Certificate of Take, the County learned that Sallie Armistead Wilson, Mary Armistead Hogge and R. Travis Armistead, Jr., as individuals and/or trustees have some ownership interest in the property; and
- WHEREAS, each of the three owners discovered after adoption of the Initial Resolution were given proper notice and received offers to purchase prior to filing the Certificate of Take; and

WHEREAS, an attorney for one or more of the owners who was provided notice of the pre-Initial Resolution and post-Initial Resolution offers and the filing of the Certificate of Take, complained that, despite the savings clause, all property owners were not specifically referenced in the Initial Resolution; and

WHEREAS, the County and the Schools have moved forward with the acquisition of the property by filing the Certificate of Take and entering upon the property for the design and engineering of the new elementary school; and

WHEREAS, after holding a public hearing, the Board of Supervisors of James City County is of the opinion that a public necessity exists for the acquisition of the hereinafter described property for the construction and operation of a new elementary school in order to provide an adequate public education system and for such public purposes as to provide for the preservation of the health, safety, peace, good order, comfort, convenience, morals, and welfare of the County; and

WHEREAS, this Resolution should be adopted *nunc pro tunc*, to clarify for all purposes, if needed, that the Initial Resolution authorized the County's acquisition of the property by voluntary conveyance or condemnation.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia that:

1. The acquisition of the hereinafter described property for a public school, specifically authorized by Section 22.1-126.1, Code of Virginia (1950), as amended, is declared to be a public necessity and to constitute an authorized public undertaking pursuant to Section 15.2-1901.1, Code of Virginia (1950), as amended, and it is further declared that the acquisition and use of such property by the County will constitute a public use as defined by Section 15.2-1900, Code of Virginia (1950), as amended.
2. The County elects to use the procedures set forth in Sections 25.1-300 et seq., as authorized by Section 15.2-1905(C), Code of Virginia (1950), as amended.
3. A public necessity exists that the County enter upon and take the hereinafter described property for the purposes described hereinabove prior to or during the condemnation proceedings and the County declares its intent to so enter and take the property.
4. The County Attorney and/or the law firm of Randolph, Boyd, Cherry and Vaughan are hereby authorized and directed to acquire by voluntary acquisition or, if necessary by condemnation, in the manner provided by Title 25.1, Code of Virginia (1950), as amended, the hereinafter described property.
5. Based on the information available from the land records, the names of the present owners of the property to be acquired are: one-half ownership in Sallie Armistead Wilson, Mary Armistead Hogge, and R. Travis Armistead, Jr., individually and/or as Trustees under the Deed and Trust Agreement dated December 27, 1970 and made by Robert T. Armistead and Sarah H. Armistead, and one-half ownership in Letitia A. Hanson and Michael J. Cavanaugh, Trustees, under the Letitia Armistead Hanson Revocable Trust.

6. A substantial description of the property is:

44 acres of land as shown on the drawing entitled "School Site 1", being a portion of that certain parcel or tract of land, situate, lying and being in James City County, Virginia, commonly known as "Jacksons" containing one hundred sixty-three and 88/100 (163.88) acres, more or less, but conveyed in gross and not by the acre, designated on a plat and survey of the tract made by Sydney Smith, Surveyor, in April, 1920, as "Mrs. Rosa Armistead's Portion" bounded and described as follows: on the North by a pond known as Warburton's Pond, and by lands of Charles Thompson, on the South by a road separating the land hereby conveyed from Greenspring Farm, on the East by Warburton's Pond, the land conveyed to John G. Warburton and the lands of Charles Thompson, and on the West by the tracts of land known as Pine Woods, Varnees and Nayses, and the south prong of Warburton's Pond.

BEING the same property as that conveyed to Rosa L. Armistead by deed of W.A. Bozarth, et als. dated June 7, 1920, recorded April 11, 1921 in James City Deed Book 19, page 241, the said Rosa L. Armistead having died seized and possessed of the said property at her death on August 11, 1956 and by her will dated September 20, 1953, and recorded in James City County Will Book 6, at page 195, she devised the said property to R. T. Armistead and Letitia Hanson; and

All that certain lot, piece or parcel of land located in James City County, Virginia, designated as Part of Parcel-1 on that certain plat entitled "PLAT OF A PORTION OF PARCEL-1, PROPERTY OF GREENSPRINGS PLANTATION, INC." dated June 10, 1997 as prepared by Freeman & Associates, Land Surveyors, attached to a deed from Greensprings Plantation, Inc., a Virginia corporation, dated July 15, 1997, recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and James City County, Virginia, as Instrument No. 970012003.

BEING the same property as that conveyed to THE LETITIA ARMISTEAD HANSON REVOCABLE TRUST, Letitia Armistead Hanson and Michael J. Cavanaugh, Trustees, from Letitia Armistead Hanson, by Deed of Gift dated December 5, 2003 and recorded in the Clerk's Office of the Circuit Court of the City of Williamsburg and James City County, Virginia as Document No. 030038497.

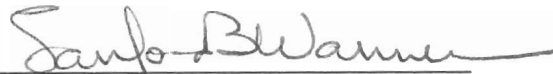
7. Just compensation is estimated to be \$450,000 based upon an appraisal which should be split equally between the two trusts identified herein or the beneficiaries of such trusts. Actual distribution of the proceeds shall be made by the Circuit Court.
8. No condemnation proceedings shall be commenced until the preconditions of Section 15.2-1903(A), Code of Virginia (1950), as amended, have been met.

9. In the event any of the property described in Paragraph 6 of this resolution has been conveyed, the County Attorney and/or the law firm of Randolph, Boyd, Cherry and Vaughan are authorized and directed to institute proceedings against the successors in title.
10. An emergency is declared to exist and this resolution shall be in effect from the date of its passage.
11. This Resolution is adopted *nunc pro tunc* by the Board of Supervisors as if the same were adopted on December 13, 2005.



Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
HARRISON	AYE
ICENHOUR	AYE
MCGLENNON	AYE
BRADSHAW	AYE
GOODSON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of May, 2006.

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