

RESOLUTION APPROVING A PLAN TO FINANCE CERTAIN CAPITAL  
IMPROVEMENTS FOR PUBLIC SCHOOL FACILITIES THROUGH  
THE ISSUANCE OF LEASE REVENUE BONDS BY THE  
ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA

WHEREAS, in conjunction with the Williamsburg-James City County School Board (the "School Board"), the Board of Supervisors (the "County Board") of James City County, Virginia (the "County"), desires to finance (including reimburse) the costs of certain capital improvements for public school facilities, including (but not limited to) the construction, renovation, rehabilitation and equipping of a middle school (collectively, the "Project"); and

WHEREAS, the Economic Development Authority of James City County, Virginia (the "Authority"), is authorized under the Industrial Development and Revenue Bond Act (the "Act") to exercise all the powers set forth in the Act, which include, among other things, the power (a) to make loans to, among others, a county in furtherance of the Act, (b) to finance or refinance and lease facilities for use by, among others, a county, (c) to issue its revenue bonds, notes and other obligations from time to time for such purposes and (d) to pledge all or any part of its revenues and receipts derived from payments received by the Authority in connection with its loans or from the leasing by the Authority of such facilities or from any source, as security for the payment of principal of and interest on any such obligations; and

WHEREAS, the School Board and the County Board desire to undertake the Project through a lease financing structure with the Authority, pursuant to which (a) the County and the School Board would lease certain property (the "Property") to the Authority pursuant to the terms of a prime lease and (b) the Authority would lease such real property back to the County and the School Board pursuant to the terms of a financing lease; and

WHEREAS, the County Board desires to request the Authority to (a) issue one or more series of lease revenue bonds or notes (collectively, the "Bonds"), (b) loan the proceeds of the Bonds to the County and the School Board pursuant to the terms of a financing lease to pay the costs of the Project and to pay related financing and issuance costs of the Bonds and (c) secure the repayment of the Bonds by a pledge of the rental payments to be made by the County pursuant to the terms of the financing lease.

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

1. The County Board hereby finds that the undertaking of the Project will be in the best interests of the County and its citizens and hereby authorizes the County, in collaboration with the School Board and the Authority, to undertake the Project.
2. The County Board hereby approves the following plan of lease financing. The County Board hereby requests the Authority to: (a) issue the Bonds in a principal amount not to exceed \$26,750,000, (b) lease the Property from the County and the School Board pursuant to the terms of a prime lease, with an expiration not later than December 31, 2042 (the "Prime Lease"), and (c) lease the Property back to the County and the School

Board pursuant to the terms of a financing lease, with an expiration not later than December 31, 2037 (the "Financing Lease"). The County will undertake to make payments to the Authority of basic rent ("Basic Rent") and additional rent ("Additional Rent") under the terms of the Financing Lease in amounts sufficient to pay when due the principal of, and premium (if any) and interest on the Bonds and to pay the fees and expenses of the Authority. The obligation of the Authority to pay principal of and premium (if any) and interest on the Bonds will be limited to the payments of Basic Rent and Additional Rent received from the County. The undertaking by the County to make payments of Basic Rent and Additional Rent will be subject to appropriation from time to time by the County Board of sufficient amounts for such purposes. Upon an event of default or an event of non-appropriation by the County Board under the Financing Lease, the Authority shall have the right to exercise any remedies provided in the Financing Lease, including the right to terminate the Financing Lease and exclude the County and the School Board from possession of the Property for the remainder of the term of the Prime Lease. The Bonds will be secured in part by an assignment to the bondholders of the Authority's rights to receive payments of Basic Rent and certain Additional Rent. This plan of lease financing shall contain such additional requirements and provisions as the County Administrator (which term for purposes of this Resolution includes any Deputy County Administrator) may approve and determine to be in the best interests of the County.

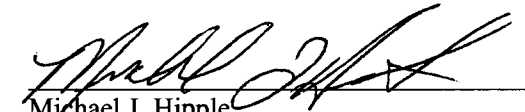
3. The County Board authorizes the County staff and the County's financial advisor to proceed with the lease financing through the Authority, subject to the approval by the County Board at a subsequent meeting of the forms of the Prime Lease, Financing Lease and any other documents necessary to the financing. The Financing Lease shall provide for payments of Basic Rent on terms equivalent to the Bonds, which (a) shall mature in installments ending no later than December 31, 2037; (b) shall have an aggregate principal amount not exceeding \$26,750,000; (c) shall have a true interest cost not exceeding 5% (taking into account any original issue discount or premium); and (d) shall be sold to the bondholders at a price not less than 100% of the aggregate principal amount thereof (without taking into account any original issue discount or premium). The County Administrator is authorized to approve a lesser principal amount for the Bonds, a maturity schedule (including serial maturities and term maturities for the Bonds) and the redemption provisions of the Bonds, all as the County Administrator shall determine to be in the best interests of the County.
4. The undertaking by the County to pay any amounts under the Financing Lease shall be limited obligations payable solely from funds to be appropriated by the County Board for such purpose and shall not constitute a debt of the County within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit of the County beyond any fiscal year for which the County Board has lawfully appropriated sufficient funds for such purpose.
5. The County Board believes that funds sufficient to make payment of all amounts payable under the Financing Lease can be obtained. While recognizing that it is not empowered to make any binding commitment to make such payments beyond the current fiscal year, the County Board hereby states its intent to make annual appropriations for future fiscal years in amounts sufficient to make all such payments and hereby recommends that future Boards do likewise during the term of the Financing Lease. The County Board directs the County Administrator, the Director of Finance or such other officer who may be charged with the responsibility for preparing

the County's annual budget, to include in the budget request for each fiscal year during the term of the Financing Lease an amount sufficient to make the payment of all amounts payable under the Financing Lease. Within 10 days after adoption of the County's annual budget and related appropriation resolution, but not later than 10 days after the beginning of each fiscal year, the County Administrator is authorized and directed to deliver to the Authority and the bondholders a certificate stating whether an amount equal to or credited to the payment of Basic Rent and Additional Rent that will be due during such fiscal year has been budgeted and appropriated by the County Board. So long as the Bonds are outstanding, if at any time during any fiscal year of the County, the amount appropriated in the County's annual budget in such fiscal year is insufficient to pay when due the amounts payable under the Financing Lease, the County Board directs the County Administrator or Director of Finance, or such other officer who may be charged with the responsibility for preparing the County's annual budget, to submit to the County Board a request for a supplemental appropriation sufficient to cover the deficit.

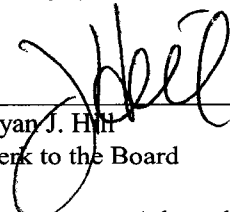
6. a. The County covenants that it will not take or omit to take any action the taking or omission of which will cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations issued pursuant thereto (the "Code"), or otherwise cause the interest due on the Bonds to be includable in the gross income of the holders thereof under existing statutes. Without limiting the generality of the foregoing, the County shall comply with any provision of law that may require the County at any time to rebate to the United States any part of the earnings derived from the investment of the funds received under the Financing Lease, unless the County receives an opinion of nationally recognized bond counsel that such compliance is not required to prevent interest on the Bonds from being includable in the gross income for federal income tax purposes of the holder thereof under existing law.
  - b. The County covenants that during the term of the Financing Lease it shall not permit the Project or the proceeds of the Bonds to be used in any manner that would result in (a) 10% or more of such proceeds or facilities being used in a trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, provided that no more than 5% of such proceeds may be used in a trade or business unrelated to the County's use of the Project, (b) 5% or more of such proceeds or facilities being used with respect to any "output facility" (other than a facility for the furnishing of water), within the meaning of Section 141(b)(4) of the Code or (c) 5% or more of such proceeds being used directly or indirectly to make or finance loans to any persons other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the County receives an opinion of nationally recognized bond counsel that any such covenants need not be complied with to prevent the interest on the Bonds from being includable in the gross income for federal income tax purposes of the holders thereof under existing law, the County need not comply with such covenants.
7. Such officers of the County as may be requested by bond counsel for the County are authorized and directed to execute an appropriate certificate setting forth (a) the expected use and investment of the proceeds of the Financing Lease in order to show that such expected use and investment will not violate the provisions of Section 148 of

the Code and (b) any elections such officers deem desirable regarding rebate of earnings to the United States for purposes of complying with Section 148 of the Code. Such certificate shall be prepared in consultation with bond counsel for the County and such elections shall be made after consultation with bond counsel.

8. All costs and expenses in connection with the undertaking of the Project and the issuance of the Bonds, including the Authority's fees and expenses and the fees and expenses of bond counsel, counsel to the Authority, counsel to the School Board, the purchaser or underwriter(s) of the Bonds and their counsel, shall be paid from the proceeds of the Bonds or other legally available funds of the County. If for any reason the Bonds are not issued, it is understood that all such expenses shall be paid by the County from its legally available funds and that the Authority shall have no responsibility therefor.
9. All other actions of the officers of the County that are in conformity with the purposes and intent of this resolution and in furtherance of this lease financing and the undertaking of the Project are approved and ratified.
10. All resolutions or parts of resolutions in conflict herewith are repealed.
11. This resolution shall take effect immediately.

  
Michael J. Hipple  
Chairman, Board of Supervisors

ATTEST:

  
Bryan J. Hill  
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LARSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ONIZUK	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SADLER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HIPPLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Adopted by the Board of Supervisors of James City County, Virginia, this 8th day of March, 2016.

EDARevBnds-res