

RESOLUTION NO. 22-7

A Resolution to acquire by condemnation, if necessary, certain portions of Parcel Identification Numbers 50000200038, 50000200039, and 50000200044 in fee simple together with certain easements for the Westover Avenue Intersection Modernization and Improvement Project.

WHEREAS, the City of Colonial Heights, Virginia (the “City”) has undertaken to improve, widen, construct and maintain an existing public street, Westover Avenue (the “Street”), located in the City at the intersection with U.S. Route 1 (the Boulevard) (the "Intersection") and to improve such Intersection, such public undertaking being known as the Westover Avenue Intersection Modernization and Improvement Project (the “Project”); and

WHEREAS, the City desires to facilitate and enable the improvement, widening, construction, and maintenance of the Street and Intersection as a primary travel route for the citizens of the City and as a vital transportation component within the City; and

WHEREAS, the purpose of the City’s acquisitions for this Project is to include a right turn lane, relocation of utilities to accommodate the street improvements (the “Street and Intersection Improvements”), and other improvements relating thereto; and

WHEREAS, the proposed Street and Intersection Improvements are essential to provide congestion relief, to improve traffic circulation with alternative routing capabilities under normal and emergency situations for citizens, businesses, and public safety vehicles; to provide safe turning egress/ingress from and to the Street and Intersection; and otherwise provide for the health, safety, and welfare of the community; and

WHEREAS, the proposed Street and Intersection Improvements are planned, designed, and located in a manner which will be most compatible with the greatest public good, the safest engineering design, and the least private property injury; and

WHEREAS, no more private property will be acquired than that which is necessary to achieve the stated public use; and

WHEREAS, the proposed Street and Intersection Improvements will be situated across and through a certain number of privately-owned parcels in the aforementioned area, including the following parcels:

- 1) Parcel Identification Number 50000200038, 202 E. Westover Avenue, Colonial Heights, Virginia 23834 (Project Parcel 006);
- 2) Parcel Identification Number 50000200039, 118 E. Westover Avenue, Colonial Heights, Virginia 23834 (Project Parcel 005); and
- 3) Parcel Identification Number 50000200044, 1101 Boulevard, Colonial Heights, Virginia 23834 (Project Parcel 001)

and the specific land and property interests needed are more particularly described as follows:

**Project Parcel 006:**

WHEREAS, a search of the land records in the City of Colonial Heights Circuit Court Clerk’s Office has revealed that the owner of Project Parcel 006 is **Nola Property, LLC**, a Virginia limited liability company (the “Owner of Project Parcel 006”) and a substantial description of the portion of Project Parcel 006 necessary for public street purposes, and purposes ancillary thereto, is as follows: **See plat attached hereto, labeled “Exhibit A” and made a part of this Resolution.**

**Project Parcel 005:**

WHEREAS, a search of the land records in the City of Colonial Heights Circuit Court Clerk's Office has revealed that the owner of Project Parcel 005 is **Thomas G. McGeever** (the "Owner of Project Parcel 005") and a substantial description of the portion of Project Parcel 005 necessary for public street purposes, and purposes ancillary thereto, is as follows: **See plat attached hereto, labeled "Exhibit B" and made a part of this Resolution.**

**Project Parcel 001:**

WHEREAS, a search of the land records in the City of Colonial Heights Circuit Court Clerk's Office has revealed that the owners of Project Parcel 001 are, or may be, Joan Rountree Carl, individually; Suzanne K. Rountree, individually; Joan Rountree Carl and Suzanne K. Rountree, Trustees of the Addie Rountree Irrevocable Trust dated November 16, 1992 for the benefit of Suzanne Rountree; Truist Bank, successor in interest to SunTrust Bank and United Virginia Bank/State Planters, Trustee of the Marital Trust under the Will of David V. Rountree, deceased; Truist Bank, successor in interest to SunTrust Bank and United Virginia Bank/State Planters, Trustee of the Residual Trust Under the Will of David V. Rountree, deceased; and McDonald's Corporation (the "Owners of Project Parcel 001") and a substantial description of the portion of Project Parcel 001 necessary for public street purposes, and purposes ancillary thereto, is as follows: **See plat attached hereto, labeled "Exhibit C" and made a part of this Resolution;** and

WHEREAS, as of the date of this Resolution and despite making bona fide efforts to purchase the necessary property rights from the aforementioned Owners, in full

compliance with Section 25.1-204, Code of Virginia (1950), as amended, the City has been unable to come to agreements with such Owners as to the amount of compensation to be paid and other terms for voluntary purchases; and

WHEREAS, the Property Rights are necessary for the expansion and improvement of a public road, and the City is authorized to condemn property interests for public road construction by Virginia Code §§15.2-1901.1 and 15.2-1902(1) and to institute and conduct condemnation proceedings under Chapters 2 and 3 of Title 25.1 of the Code of Virginia, (1950), as amended, following adoption of a resolution after conducting a public hearing meeting the requirements of Virginia Code §§ 15.2-1902, 15.2-1904.A, and 15.2-1905C; and

WHEREAS, after holding a public hearing on this matter, the City has determined that a public necessity exists for the fee simple acquisition of portions of the above described properties for the improvement, widening, construction, and maintenance of the Street, together with the relocation of certain utilities, ingress/egress easements, and temporary construction easements, all of which are for the public purposes of providing a better streetway for public use, along with providing for the general health, safety, peace, good order, comfort, convenience, morals and welfare of the City; and

WHEREAS, a public hearing following proper legal notice was held, pursuant to Section 15.2-1903(B) of the Code of Virginia (1950), as amended, on March 8, 2022.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Colonial Heights, Virginia:

1. The acquisition of certain portions of Project Parcels 006, 005 and 001, for public streetway and associated incidental and ancillary uses including, but not limited

to, slopes, ditches, drainage, temporary construction, and utility relocation purposes, and landscaping and pedestrian pathways is determined and declared to constitute an authorized public undertaking pursuant to Section 15.2-1901.1 of the Code of Virginia (1950), as amended; and it is further determined and declared that the acquisition and use of the property by the City as described herein will constitute a public use as defined by Section 1-219.1 of the Code of Virginia (1950), as amended, and that such public use is hereby approved.

2. A public necessity exists for the acquisition of such private property and interests in private property for the aforesaid public uses for the reasons set forth in this Resolution.
3. The City hereby elects to use the procedures set forth in Section 25.1-300 *et seq.*, as authorized by Sections 15.2-1902 and 15.2-1904 and the procedures and provisions of Sections 33.2-1007 through 33.2-1011, 33.2-1014 and 33.2-1017 of the Code of Virginia (1950), as amended, as authorized by Section 15.2-1902(4).
4. A public necessity exists that the City enter upon and take possession of the aforesaid portion of and rights in the Property for the purposes described above before the conclusion of condemnation proceedings, and the City declares its intent to so enter and take the Property under those powers granted pursuant to Sections 15.2-1902, 15.2-1904, and 25.1-300 *et. seq.* of the Code of Virginia (1950), as amended.
5. Pursuant to Section 15.2-1905(c) the compensation, including damages, if any, offered each of the property owners listed in the preamble of this Resolution is as follows:

Project Parcel 006	\$ 4,800.00
Project Parcel 005	\$ 4,400.00
Project Parcel 001	\$61,441.00

6. The City Manager, the City Attorney, and the law firm of Randolph, Boyd, Cherry & Vaughan, PLC may utilize the procedures set forth in Sections 15.2-1901 *et. seq.*, and Title 25.1 of the Code of Virginia (1950), as amended, and/or the procedure set forth in Chapter 18 of the City Charter, as amended, to initiate and conduct condemnation proceedings.
7. The City Manager, the City Attorney, and the law firm of Randolph, Boyd, Cherry & Vaughan PLC be, and they hereby are, authorized and directed to acquire the Property by condemnation if necessary and in the manner provided by Title 25.1, including, but not limited to, Chapter 3 (Section 25.1-300 *et. seq.*), and Title 33.2 to the extent made applicable to localities by Section 15.2-1902(4) of the Code of Virginia (1950), as amended.
8. In the event the above-described property has been conveyed to a third party, the City Manager, the City Attorney, and the law firm of Randolph, Boyd, Cherry & Vaughan, PLC are hereby authorized to institute proceedings against the successors in title.
9. This Resolution shall be effective upon its approval.

Approved:

\_\_\_\_\_

Mayor

Attest:

\_\_\_\_\_

City Clerk

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I certify that the above resolution was:

Adopted on \_\_\_\_\_.

Ayes: \_\_\_\_\_. Nays: \_\_\_\_\_. Absent: \_\_\_\_\_. Abstain: \_\_\_\_\_.

The Honorable Kenneth B. Frenier, Councilman: \_\_\_\_\_.

The Honorable John E. Piotrowski, Councilman: \_\_\_\_\_.

The Honorable Dr. Laura F. Poe, Councilwoman: \_\_\_\_\_.

The Honorable R. W. Wade, Councilman: \_\_\_\_\_.

The Honorable John T. Wood, Councilman: \_\_\_\_\_.

The Honorable Elizabeth G. Luck, Vice Mayor: \_\_\_\_\_.

The Honorable T. Gregory Kochuba, Mayor: \_\_\_\_\_.

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney