



Legislation Text

File #: 17-0202, Version: 1

Resolution Authorizing the City Manager to Grant a Perpetual Restrictive Use Easement to the United States of America Over the Entirety of a Parcel of Real Property Located Near Langley Air Force Base (LAFB) Containing 23.96± Acres and Designated 2941 N. Armistead Avenue (LRSN 6000794) Adjacent to Langley Air Force Base (LAFB) as Part of the Department of Defense's (DoD) Readiness and Environmental Protection Integration (REPI) Program in Order to Limit Incompatible Encroachment Near LAFB

Purpose/Background:

*****UPDATE FOR August 9, 2017 MEETING - The attached perpetual restrictive use easement (Easement) represents the final terms approved by the Air Force and City staff. Since this item was initially advertised for a public hearing, the City acquired 2941 N. Armistead Avenue (the Property) on July 14, 2017 as part of the Cooperative Agreement process described below. If the resolution is approved by City Council, the City will grant the Easement over the Property to the United States of America, acting by and through the Secretary of the Air Force, and will be reimbursed by the federal government for approximately one-half the purchase price the City paid for the Property (\$170,000). The Easement allows the Air Force to limit any development or use of the property which would be incompatible with the mission of Langley Air Force Base while the City retains fee simple ownership of the Property. If Langley Air Force Base is ever closed, the Easement will automatically terminate.**

*****UPDATE FOR JULY 12, 2017, MEETING - On Friday, July 7th, City staff was notified that the final easement language is still under review by the Air Force's Office of General Counsel. As such, staff is requesting deferral of this item until the August 9, 2017, City Council meeting.**

In July 2015, the City entered into a Cooperative Agreement with the United States of America under the auspices of the Department of Defense (DoD) Readiness and Environmental Protection Integration (REPI) Program, acting by and through the Secretary of the Air Force ("Air Force"), in order to facilitate acquisition in fee simple by the City of designated properties within Accident Potential Zone I adjacent to Langley Air Force Base. The acquisitions would be on a voluntary basis only. Under the Cooperative Agreement, the City will acquire the properties and subsequently transfer the development rights in the form of perpetual restrictive use easements to the Air Force over the parcels acquired. These easements would help the City offset the cost of acquisition of the parcels and protect Langley Air Force Base from incompatible encroachment.

Staff is requesting deferral of this item until the July 12, 2017 meeting in order to review

changes to the Deed of Easement received by the Air Force after the advertisement publication date.

Discussion:

See Purpose/Background above.

Impact:

See Purpose/Background above.

Recommendation:

Defer action on this item until the **August 9, 2017** City Council meeting

WHEREAS, in 2010, the City of Hampton (the “City”) and Langley Air Force Base (“LAFB”) undertook a collaborative planning effort known as the Joint Land Use Study (“JLUS”) involving local communities, federal officials, residents, business owners, and the military to identify compatible land uses and growth management guidelines for parcels near to LAFB;

WHEREAS, the JLUS implementation plan recommended acquisition of property and/or property rights when necessary in the area immediately adjacent to LAFB known as the “Clear Zone” and “Accident Potential Zones” in order to limit incompatible development and encroachment near LAFB;

WHEREAS, in furtherance of these recommendations, since 2013, the City has partnered with the Commonwealth of Virginia through the Federal Action Contingency Trust (“FACT”) Fund to acquire several parcels of property within and abutting the Clear Zone;

WHEREAS, in July 2015, the City entered into a Cooperative Agreement with the United States of America (the “Cooperative Agreement”) under the auspices of the Department of Defense (“DoD”) Readiness and Environmental Protection Integration (“REPI”) Program, acting by and through the Secretary of the Air Force (“Air Force”), in order to facilitate acquisition in fee simple by the City of designated properties within Accident Potential Zone I on a voluntary basis and the subsequent transfer of development rights in the form of perpetual restrictive use easements to the Air Force over the parcels acquired;

WHEREAS, among other terms, the Air Force has agreed to pay certain transaction costs related to due diligence, including but not limited to title searches, environmental site assessments, and surveys, as well as the appraised value of the perpetual restrictive use easements, which will significantly offset the City’s cost to purchase the identified parcels;

WHEREAS, in September 2016, the City and Air Force entered into a First Amendment to the Cooperative Agreement to further define the properties desired for acquisition and incorporate the actual funding amounts for upcoming fiscal years;

WHEREAS, pursuant to the Cooperative Agreement, the City entered into a contract with Linwood R. Wright and Carol H. Wright for the acquisition of a parcel of property designated as 2941 N. Armistead Avenue (LRSN 6000794), which is within Accident Potential Zone I, with a closing date scheduled for June 14, 2017;

WHEREAS, upon acquisition, in accordance with the Cooperative Agreement, the City desires to grant a perpetual restrictive use easement (“Easement”) to the Air Force, which would prevent any activity, development, or use of the property that is inconsistent with the flying mission of LAFB and;

WHEREAS, the Easement will automatically terminate by operation of law upon the closure of LAFB or upon written and recorded agreement of the parties;

WHEREAS, in accordance with section 15.2-1800 of the Code of Virginia, the City Council has held a duly advertised public hearing on the proposed Easement; and

WHEREAS, the City Council finds that granting the Easement is in the best interest of the City of Hampton and its citizens.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Hampton, Virginia, as follows:

1. That it authorizes and directs the City Manager to execute and deliver the Easement as described above and to execute any other documents as may be needed or desirable for the purposes identified herein in accordance with the Cooperative Agreement with the Air Force.