



## Legislation Text

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**File #:** 18-0004, **Version:** 1

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Ordinance Endorsing the Element Hotel at Peninsula Town Center as a Qualifying Tourism Project Consistent with the Commonwealth of Virginia Tourism Zone Gap Financing Program, Authorizing the City Manager to Execute a Performance Agreement Designating Local Revenues Consistent with the Program for the Hotel, and Adopting the Hampton Tourism Development Plan

### **PURPOSE/BACKGROUND:**

The State has established a financing program (the Virginia Tourism Development Financing Program, hereinafter, the "Program") for qualifying Virginia tourism development projects (hereinafter, "Project"). The Program enables localities to provide economic and regulatory incentives for Projects that are identified as critical to local economic development and are developed in partnership with developers, localities, financial institutions, the Virginia Tourism Corporation and the Virginia Resources Authority.

The Program can only be used for projects located in designated tourism zones, which must be created by ordinance designating the tourism zone's boundaries and purpose.

On April 8, 2015, Hampton City Council adopted an ordinance establishing two tourism zones (Coliseum Central and Waterfront) which allows for Hampton to grant certain tax incentives to qualified tourism projects as authorized by Section 58.1-3851.1 of the Code of Virginia.

On March 22, 2017, Hampton City Council approved a Cooperation Agreement with the Economic Development Authority of the City of Hampton ("EDA") to provide sufficient funds to the EDA to make timely payment of grant incentives as set forth in the grant agreement executed by the EDA on May 18, 2017.

On May 18, 2017, the EDA executed an Economic Development Incentive Grant Performance Agreement with T Peninsula Hotel VA, LLC ("Developer") and agreed to assist the Developer in seeking tourism gap financing related to the development of a 120 room Element Hotel containing 1,000 square feet of meeting space.

In accordance with that grant agreement, this ordinance will assist the Developer by formally adopting a Tourism Development Plan and endorsing construction of the Element Hotel at Peninsula Town Center as a tourism project for the purposes of allowing the project to qualify for the Commonwealth of Virginia's Tourism Development Financing Program. The tourism Development Financing program will allow the project to capture a portion of the state sales tax to be used for gap financing of the project.

The City is willing to provide this financial support to assist T Peninsula Hotel VA, LLC with

developing the hotel which will complement the tourism related assets in Hampton and assist with meeting visitor demand for quality hotel rooms.

If the Project is certified by the State Comptroller for the tourism gap financing it will designate to the project an amount equal to the revenues generated by one percent (1%) of local sales and use tax generated by transactions.

Such amounts will be remitted to the EDA to be applied to the payment of principal and interest on the qualified gap financing for the Project.

The Commonwealth will also apply an amount equal to 1% of the state sales and use taxes with such amount to be applied to the payment of principal and interest on the qualified gap financing. The Developer will provide an amount equal to the 1% (the "Access Fee") to be applied to the payment of principal and interest on the qualified gap financing. The EDA will remit the monies directly to the financing entity and will be responsible for record keeping for the term of the 10-year loan.

### **Discussion:**

See Purpose/Background above.

### **Impact:**

See Purpose/Background above.

### **Recommendation:**

Approve the Ordinance.

**WHEREAS**, on May 18, 2017, the Economic Development Authority of the City of Hampton, Virginia ("EDA") entered into an Economic Development Incentive Grant Performance Agreement (the "Grant Agreement") with T Peninsula Hotel VA, LLC (the "Developer") to incentivize the Developer's construction of a new Element hotel, or comparable hotel brand approved by the City of Hampton (the "City") and EDA containing a minimum of 120 hotel rooms and 1000 square feet of meeting room space on a site owned by the Developer located at 1851 Merchant Lane (LRSN 13004539) within Peninsula Town Center (the "Project");

**WHEREAS**, the Grant Agreement included a commitment by the EDA to work collaboratively with the Developer to obtain additional grants, including the Tourism Development Financing Program administered by the Virginia Tourism Corporation ("Tourism Zone Grant"), which if awarded would offset, according to the terms of the Grant Agreement, other EDA grants and incentives for the Project;

**WHEREAS**, Section 58.1-3851 *et seq.* of the Code of Virginia (the "Statute") and the Commonwealth of Virginia's Tourism Development Financing Program provides a mechanism by which an eligible tourism project may receive certain revenue streams to contribute toward interest and principal on "Gap Financing" for up to 30% of the funding for the Project, as that term is further

described in the Statute;

**WHEREAS**, in accordance with the Statute, on April 8, 2015, the City Council established two (2) tourism zones, one of which is entitled the “Coliseum Central Tourism Zone,” in which the Project is located;

**WHEREAS**, on March 22, 2017, the City Council approved a Cooperation Agreement with the EDA to provide sufficient funds to the EDA to make timely payment of grant incentives as set forth in the Grant Agreement, including any local revenues required under an approved Tourism Zone Grant, if applicable;

**WHEREAS**, by resolution adopted June 20, 2017, the EDA authorized and directed its Chair or Vice Chair to submit an application and related documents, in cooperation with the Developer, for the Tourism Zone Grant to assist the Developer in obtaining the Gap Financing for the Project, and, accordingly, the EDA and Developer did so apply;

**WHEREAS**, City staff reviewed the Developer’s application for the Tourism Zone Grant and found that the Project meets the City’s criteria for Gap Financing under the local Tourism Zone Guidelines adopted pursuant to the City’s Coliseum Central Tourism Zone and received preliminary approval from the Commonwealth of Virginia for the Project to proceed with a full application to be considered by the State Comptroller;

**WHEREAS**, the Project meets a deficiency identified in the tourism marketing plan for the project area (“Hampton Tourism Marketing Plan”), namely that the number of modern full and select service hotels within the City is insufficient to support the current and future needs of the City and its visitors, and consequently constrains tourism-related activities in the Coliseum Central area;

**WHEREAS**, the Hampton Tourism Marketing Plan, which is consistent with the guidelines set forth by the Virginia Tourism Authority and is attached as Exhibit A, will be formally approved by City Council upon adoption of this ordinance;

**WHEREAS**, to meet the requirements of the Statute, the City and the EDA are required to execute a performance agreement (“Performance Agreement”), which is attached as Exhibit B, setting forth the parties’ responsibilities under the proposed Tourism Zone Grant for the Project;

**WHEREAS**, the Performance Agreement memorializes the Developer’s obligation to provide ninety percent (90%) of the funding for the Project, through both debt and equity financing, pursuant to the Statute, in a combined amount expected to be \$15,490,000.00;

**WHEREAS**, the Performance Agreement identifies that Gap Financing in the amount of ten percent (10%) of the Project cost will be necessary to meet the shortfall in funding for the Project between the debt and equity secured by the Developer and the expected development cost, in the amount of \$1,815,729.00;

**WHEREAS**, as further set forth in the Performance Agreement, if the Gap Financing is fully approved by the Commonwealth of Virginia, then, subject to appropriation of funds by the applicable governing bodies, the EDA shall receive quarterly payments from the City, Commonwealth of Virginia, and the Developer, and each payment shall be in an amount equal to the revenues generated by a one percent (1%) Virginia Sales and Use Tax on transactions occurring upon the premises of the Project (collectively, the monies from all three entities shall be the “Performance Incentive Payment”);

**WHEREAS**, under the terms of the Statute, the Performance Incentive Payment will be remitted quarterly by the EDA to the financial institution from which the Developer acquires its Gap Financing, as further described in the Performance Agreement, until such time as the Gap Financing has been paid or ten years elapses, whichever is sooner; and

**WHEREAS**, as provided by the Statute, the Developer is responsible for the repayment of the Gap Financing and there is no recourse for this debt against the EDA, the City, or the Commonwealth of Virginia.

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

1. That it adopts the Hampton Tourism Development Plan as approved by the Virginia Tourism Authority in substantially the same form and content as that which is attached as Exhibit A;
2. That it finds that the Project meets a deficiency identified in the Hampton Tourism Development Plan;
3. That it endorses the Project for the purposes of the Statute and Commonwealth of Virginia Tourism Development Financing Program, authorizes and directs the City Manager to execute a Performance Agreement in substantially the same form and content as that which is attached as Exhibit B, which will in part designate, subject to approval by the Commonwealth of Virginia, the City's contribution to the Project in an amount equivalent to revenues generated by a one percent (1%) Virginia Sales and Use Tax on transactions occurring upon the premises of the Project, which will be applied to the payment of the principal and interest on the Gap Financing during the duration of the Performance Agreement; and
4. That it further authorizes and directs the City Manager to execute any other related documents and to perform other such acts as may be necessary and appropriate to fulfill the requirements of the Statute and Virginia Tourism Development Financing Program.