



# Albemarle County

## Legislation Details (With Text)

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**Type:** Report      **Status:** Consent Agenda  
**File created:** 2/4/2016      **In control:** Board of Supervisors  
**On agenda:** 3/2/2016      **Final action:**  
**Title:** ACE – Virginia Department of Agriculture and Consumer Services grant for easement acquisition  
**Sponsors:**  
**Indexes:**  
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**Attachments:** 1. 16-189 Att.A VDACS Agrmnt, 2. 16-189 VDACS Pre-award Notification, 3. 16-189 Att.C Resolution

Date	Ver.	Action By	Action	Result
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**AGENDA DATE:** 3/2/2016

**AGENDA TITLE:** ACE - Virginia Department of Agriculture and Consumer Services grant for easement acquisition

**SUBJECT/PROPOSAL/REQUEST:** Resolution approving FY16 Intergovernmental Agreement with Virginia Department of Agriculture and Consumer Services

**ITEM TYPE:** Consent Agenda

**STAFF CONTACT(S):** Foley, Walker, Davis, Herrick, Cilimberg, and Goodall

**PRESENTER (S):** N/A

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Thomas C. Foley

### BACKGROUND:

The Virginia Department of Agriculture and Consumer Services' ("VDACS"), Office of Farmland Preservation, has awarded a grant in the amount of \$411,890 to the County under a program established by the 2007 General Assembly to provide funds for the preservation of working farms and forest lands.

This is the largest award the County has received under this grant program; the County was awarded grants of \$286,883 in 2015, \$149,678 in 2014, \$160,716 in 2013, \$110,952 in 2012, \$55,290 in 2011, \$93,932 in 2010, \$49,900 in 2009 and \$403,220 in 2008. The 2015 General Assembly appropriated almost \$2,000,000 for this grant program statewide, and Albemarle County is one of six localities to receive a grant this year, and one of only four to receive the full amount requested.

### STRATEGIC PLAN:

Natural Resources: Thoughtfully protect and manage Albemarle County's ecosystems and natural resources in both the rural and development areas to safeguard the quality of life of current and future generations

Rural Areas: Preserve the character of rural life with thriving farms and forests, traditional crossroad communities, and protected scenic areas, historic sites, and biodiversity.

## **DISCUSSION:**

VDACS has requested that the County enter into a FY16 Intergovernmental Agreement (the "IGA") (Attachment A) as a condition for receiving this grant. While the County has yet to identify the specific easement(s) to which it would apply these funds, it intends to apply them toward the acquisition of the next qualifying easement(s), most likely from the last two ACE applicant pools that were received on October 31, 2014 and October 31, 2015. This grant will remain available to (partially) reimburse any qualifying purchase for up to two years from the date of the IGA. The key provisions of the IGA are the same as in past years and summarized below.

1. The IGA would obligate VDACS to set aside the grant amount in a restricted account and reimburse the County for its eligible costs for the purchase of conservation easement(s). The County's funds would be restricted exclusively for the County's qualifying costs for a period of up to two years.
2. The IGA also would restrict conversion or diversion of a subject property from open-space use, unless the conversion or diversion satisfied the requirements of the Open Space Land Act. Conversion or diversion of land is permitted under the Open-Space Land Act in limited circumstances upon the concurrence of the County and the Public Recreational Facilities Authority and upon the placement of substitute land of equal or greater value and quality under an open-space easement. The Agreement would entitle VDACS to reimbursement of its pro rata share of the market value of the easement if conversion or diversion ever occurred.
3. In exchange for the state's grant commitment, the IGA would obligate the County to:
  - appropriate matching funds equal to the grant amount for the purchase of a subject easement,
  - apply the grant funds to the purchase of the easement,
  - provide VDACS with annual progress reports (while the grant Agreement is in force) describing the County's efforts to obtain easements on other working farms, and its programs for public outreach, stewardship and monitoring, and measuring the effectiveness of the County's efforts to bring working farms under easement.
  - maintain sufficient title insurance for the subject easement(s), which is already a standard County practice,
  - allow VDACS the opportunity to review easement instruments and the title insurance policy prior to closing,
  - receive copies of the recorded easement instrument after closing,
  - provide notice to VDACS if the County receives an application to convert or divert a subject easement from its permitted easement uses, and
  - enforce the terms and conditions of the deed of easement.

Staff has reviewed the terms of the FY16 IGA between VDACS and the County and finds its terms acceptable.

In addition, VDACS provided a Pre-award Notification (Attachment B) to the County, which allows the recordation of an ACE easement after October 30, 2015 but before the full execution of the FY16 IGA to be reimbursable under the terms of the FY16 IGA, provided that: 1) any easement recorded during that time-frame must conform to the requirements and procedures outlined in the FY16 IGA; 2) any approved reimbursement will not be paid to the County until after the FY16 IGA is fully executed; and 3) VDACS is under no obligation to reimburse the County should the recorded easement not meet the requirements set forth in the FY16 IGA or should VDACS' matching funds to the County be reprogrammed, reduced, or eliminated prior to the full execution of the FY16 IGA. Staff has reviewed the terms of the Pre-award Notification and finds its terms acceptable.

## **BUDGET IMPACT:**

The County's execution of the FY16 IGA would allow the County to receive \$411,890 in state funding to apply to the ACE program. In order for the County to receive these funds, it must appropriate matching funds of

\$411,890. That local match is available through funds previously appropriated for ACE by the Board in FY16.

**RECOMMENDATIONS:**

Staff recommends that the Board adopt the attached Resolution (Attachment C) authorizing the County Executive to execute the Agreement (Attachment A) and the Pre-award Notification (Attachment B) on behalf of the County, provided that they are first approved as to form and content by the County Attorney.

**ATTACHMENTS:**

- A - FY16 Intergovernmental Agreement
- B - VDACS' Pre-aware Notification
- C - Resolution