

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE COUNTY OF ALBEMARLE,
THE VIRGINIA INDIGENT DEFENSE COMMISSION,
AND THE PUBLIC DEFENDER OFFICE FOR THE CITY OF
CHARLOTTESVILLE AND THE COUNTY OF ALBEMARLE**

THIS MEMORANDUM OF UNDERSTANDING is entered into this day ___ of December, 2024, by and between the **COUNTY OF ALBEMARLE**, a political subdivision of the Commonwealth of Virginia ("County"), the **VIRGINIA INDIGENT DEFENSE COMMISSION**, an independent state agency that supports the judicial branch of the Commonwealth of Virginia designated by Code of Virginia §19.2-163.02 ("VIDC"), and the **PUBLIC DEFENDER OFFICE FOR THE CITY OF CHARLOTTESVILLE AND THE COUNTY OF ALBEMARLE**, an office of the Virginia Indigent Defense Commission, ("Office of Public Defender").

WHEREAS, the Office Public Defender submits a pay equity proposal to the County for funding to supplement the salaries of employees in the Office of Public Defender; and,

WHEREAS, Virginia Code§ 19.2-163.01:1 authorizes the governing body of any city or county to supplement from the funds of the city or county the compensation of public defenders or any of their deputies or employees, from the funds of the city or county; and,

WHEREAS, the Albemarle County Board of Supervisors has appropriated the amount of \$181,983 to supplement the salaries of the Office of Public Defender in fiscal year 2025; and,

WHEREAS, the VIDC will issue pro-rated payment as of the Effective Date with a maximum amount of \$181,983 to supplement the salaries of the Office of Public Defender in fiscal year 2025 in accordance with their internal practices; and,

WHEREAS, the County, the VIDC, and the Office of Public Defender now wish to set forth in this Memorandum of Understanding ("MOU") the obligations and procedures for providing the salary supplements directly to the VIDC for the purpose of providing pay equity to the attorneys employed by the Office of the Public Defender for the City of Charlottesville and the County of Albemarle.

NOW, THEREFORE, in consideration of the mutual covenants contained herein the County, the VIDC, and the Office of Public Defender do hereby agree as follows:

(1) **Term**: The term of this MOU shall begin on the day ___ of December, 2024 (the "Effective Date") and thereafter renew automatically every July 1 unless terminated by either party. In the event such funds are not appropriated for the following fiscal year, this MOU will automatically terminate as of June 30th of the then current fiscal year, and neither party will have any further obligation or responsibility pursuant to this MOU for the next fiscal year or subsequent fiscal years for which funds are not appropriated.

(2) Obligations of the Office of Public Defender

(A) To assist in the preparation of the County's proposed annual budget, each year the Office of Public Defender will submit to the County, Department of Finance and Budget, on or before November 15, the amount requested for funding for the next fiscal year with an explanation of how the amount was determined. The amount requested shall be based on principles of pay equity between employees of the Office Public Defender and employees of the Commonwealth's Attorney for Albemarle County and the City of Charlottesville, and the request shall include a comparison of the respective salaries and supplements for the comparable positions in the three offices.

(B) On or before June 1 in each subsequent calendar year in which this MOU remains in effect, the Office of Public Defender will provide in writing to the County, Department of Finance and Budget, (i) the names of the employees in the Office of Public Defender who will receive salary supplements during the following fiscal year; (ii) the amount of the annual salary supplement for each such employee; and (iv) such other information requested by the County that is reasonably necessary for the County to comply with any applicable requirements.

(C) The Office of Public Defender will give prompt written notice to the VIDC whenever any employee of the Office of Public Defender who is receiving a salary supplement terminates his or her employment with the Office of Public Defender, or who otherwise becomes ineligible for the salary supplement. The Office of Public Defender shall also give prompt written notice to the VIDC and the County of any new hire in the Office of Public Defender who will be eligible for the salary supplement, and the effective date of employment.

(3) Obligations of the VIDC

(A) The VIDC will submit an invoice to the County, Department of Finance and Budget, within 30 days of the start of the calendar year, January 1, for a one-time payment to fund the Office of Public Defender's salary supplements pursuant to this MOU.

(B) The VIDC will assume full responsibility for timely delivery of the supplemental salary payments to the Office of Public Defender's employees pursuant to this MOU per their internal payroll process.

(C) The VIDC will assume full responsibility for providing each employee who receives a salary supplement with any statement or form required from payors by the Internal Revenue Service or the Commonwealth of Virginia. VIDC will reduce the amount the employee will see in their pay by withholdings, including payroll taxes and employee/er FICA. The employer FICA is 7.65% and will be subtracted from the amount that is provided by the County prior to it being paid to the employee. The supplement payments provided pursuant to this agreement shall not be considered creditable compensation for purposes of the Virginia Retirement System.

(D) At the conclusion of each fiscal year, the VIDC will provide a detailed supplemental

pay report to the County illustrating the use of the one-time payment to fund the Office of Public Defender's salary supplements pursuant to this MOU.

(4) Obligations of Albemarle County:

(A) Upon receipt of the invoice provided by the VIDC pursuant to section 3 (A), the County will pay the amount submitted by the VIDC directly to the VIDC.

(B) The County shall give prompt written notice to the Office of Public Defender if any information necessary to make supplemental salary payments, or to make a payment to the VIDC, has not been provided to the County.

(C) As required by Virginia Code section 19.2-163.01:1 the County shall provide notice to the VIDC of the amounts provided to each Public Defender employee pursuant to this MOU.

(D) During consideration of the annual County budget the Office of Management and Budget will notify the Albemarle County Board of Supervisors of the amount of funding requested by the Public Defender and the amount, if any, recommended by County staff. The County staff shall review the amount requested by the Office of Public Defender to ensure it is based on principles of pay equity between employees of the Office Public Defender and employees of the Commonwealth's Attorney for Albemarle County and the City of Charlottesville.

(E) Nothing in this MOU shall be interpreted as obligating the Albemarle Board of County Supervisors to appropriate funds, or to appropriate funds in any particular amount, for salary supplements for employees of the Office of Public Defender.

(5) Suspension and Termination:

If any party fails to fulfil its obligations under this MOU, or otherwise violates the terms or conditions of this agreement, the other party may suspend its performance. If such noncompliance continues after notice and a reasonable opportunity to remedy the noncompliance, the non-breaching party may terminate this MOU without liability or further responsibility.

(6) Erroneous Payments:

If any payment made by the VIDC to an employee of the Office of Public Defender is not in compliance with the terms or requirements of this MOU, regardless of whether it is an underpayment or an overpayment and regardless of cause or fault, VIDC and the Office of Public Defender agree to work cooperatively and in mutual good faith to remedy the erroneous payment as soon as practicable.

(7) Unspent Funding:

Should there be turnover, or any other circumstances, that allow for any unused or remaining funding at the end of the fiscal year, the VIDC may redistribute unused or remaining funding as additional supplemental income to the employees of the Office of Public Defender with prior approval of the County. The VIDC may also apply unused or remaining funds to supplement a

replacement hire at a higher supplemental income than the former employee with prior approval from the County. The County, the VIDC, and the Office of Public Defender agree to work cooperatively to appropriate unused or remaining funding.

(8) Compliance with Applicable Law:

The payments contemplated by this MOU will be made pursuant to and in accordance with the provisions of Virginia Code § 19.2-163.01:1, or any successor statute that authorizes a locality to supplement the compensation of a public defender and his or her employees. Accordingly, nothing herein shall be construed as placing any condition or requirement upon a Public Defender employee's receipt of funds under this MOU, as prohibited by the aforementioned enabling legislation.

(9) Supersedes Prior Agreement

This agreement supersedes the November 16, 2016 Memorandum of Understanding between the County and Elizabeth Murtagh in her official capacity as the Public Defender for the City of Charlottesville and the County of Albemarle.

WITNESS the following authorized signatures:

ALBEMARLE COUNTY, VIRGINIA

By: _____ Date: _____

Jeffrey Richardson, County Executive

OFFICE OF PUBLIC DEFENDER FOR THE CITY OF CHARLOTTESVILLE AND THE COUNTY OF ALBEMARLE

By: _____ Date: _____

Name: Nicholas Reppucci, Esq., Public Defender

VIRGINIA INDIGENT DEFENSE COMMISSION (VIDC)

By: _____ Date: _____

Name: Maria Jankowski, Executive Director