

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE COUNTY OF ALBEMARLE, VIRGINIA AND
THE COMMONWEALTH'S ATTORNEY FOR ALBEMARLE COUNTY

This Memorandum of Understanding (the "Agreement") is made and entered into on the 28th day of June, 2018 by and between the County of Albemarle, Virginia (the "County") and the Commonwealth's Attorney for Albemarle County (the "Commonwealth's Attorney");

WHEREAS, the County and the Commonwealth's Attorney desire to enter into an agreement setting forth their understanding with respect to compensation, benefits, and personnel policies applicable to the employees of the Commonwealth's Attorney; and

WHEREAS, the Commonwealth's Attorney's Office is a constitutional office independent in all respects from the County of Albemarle. Individuals employed by the Commonwealth's Attorney are, and shall remain, appointees and employees of the Commonwealth's Attorney and are not employees of the County. Nothing in this Agreement shall alter or diminish the Commonwealth's Attorney's duties and rights with respect to his employees pursuant to Virginia Code §§ 15.2-1603 and 15.2-1604. Moreover, nothing in this Agreement shall alter, diminish, or supersede the constitutional independence or prosecutorial discretion of this office. Finally, nothing in this Agreement provides the County or the Albemarle County Board of Supervisors oversight, dominion, influence, or control over the Office of Commonwealth's Attorney.

NOW THEREFORE, the parties hereto covenant and agree as follows:

1. Personnel Policies. All Personnel Policies referenced in this Agreement are the personnel policies applicable to Albemarle County classified employees. Personnel Policies shall be referenced as Policy P-(number of policy) for purposes of this Agreement.

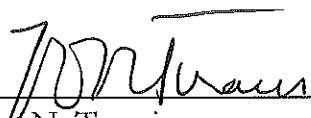
2. Employee Status. Individuals employed by the Commonwealth's Attorney are, and shall remain, appointees and employees of the Commonwealth's Attorney and are not employees of the County. Nothing in this Agreement shall alter or diminish the Commonwealth's Attorney's duties and rights with respect to his employees pursuant to Virginia Code §§ 15.2-1603 and 15.2-1604. The Commonwealth's Attorney's employees shall not be covered by the County's

the extent required by applicable State law, such as Virginia Code § 15.2-1517(B) regarding group life, accident and health insurance.

8. Holidays. The County and the Commonwealth's Attorney acknowledge that the current holiday schedules maintained by the Commonwealth of Virginia and the County are not congruent. The Commonwealth's Attorney agrees to have his employees follow the legal holidays recognized by the Commonwealth of Virginia pursuant to Virginia Code §§ 15.2-1605 and 2.2-3300. However, the Commonwealth's Attorney's employees shall be subject to the other provisions of Policy P-81 (Holidays).

9. Office of the Commonwealth's Attorney Status. Virginia Code § 15.2-1600 and Article VII, Section 4 of the Constitution of Virginia establish that the Office of the Commonwealth's Attorney is independent from the oversight, dominion, or control of the County or the Albemarle County Board of Supervisors. Nothing in this Agreement shall alter, diminish, or supersede the constitutional independence or prosecutorial discretion of the Commonwealth's Attorney.

10. Term of Agreement. This Agreement shall take effect upon the full execution of this Agreement by the Commonwealth's Attorney and the County and shall remain in force for one calendar year, unless terminated by either party upon thirty (30) days prior written notice. This Agreement may be amended only upon the written agreement of both the Commonwealth's Attorney and the County.

By:  Date: 6-28-19
Robert N. Tracci,
Commonwealth's Attorney

COUNTY OF ALBEMARLE, VIRGINIA

By: _____ Date: _____
Jeffrey B. Richardson
County Executive

Approved as to Form:

County Attorney

employee grievance procedure contained in Policy P-03 and remain, in all respects, at-will employees of the Commonwealth's Attorney.

3. Compensation. The County and the Commonwealth's Attorney agree that employees of the Commonwealth's Attorney shall participate and be included in the County's classification and pay plan. The Commonwealth's Attorney understands that future compensation increases funded by the Commonwealth of Virginia through the Compensation Board will not be passed automatically to the Commonwealth's Attorney employees because his employees will be covered by the County's pay plan. Notwithstanding the above, compensation for the employees of the Commonwealth's Attorney will be no less than the compensation approved by the Compensation Board.

Employees of the Commonwealth's Attorney shall be eligible to receive any market rate salary increase that County employees are eligible to receive. An employee of the Commonwealth's Attorney shall receive the market rate salary increase upon the Commonwealth's Attorney submitting a completed satisfactory performance review to the County's Department of Human Resources pursuant to Policy P-23. The Commonwealth's Attorney's employees will not be eligible to receive any additional merit-based salary increase dependent upon the County's performance review process, however, they may be eligible to receive special one-time merit based pay if authorized by the Board of Supervisors.

4. Benefits. Health insurance, annual and sick leave (except as limited by State law, including Virginia Code § 15.2-1605), insurance protection, tuition assistance repayment, retirement programs, participation in deferred compensation programs, and certain other benefits available to County employees shall be available to the employees of the Commonwealth's Attorney and governed by the personnel policies and procedures of the County. However, because employees of the Commonwealth's Attorney are not County employees, they will not be included for recognition at the annual Albemarle County employee recognition ceremony.

5. County Personnel System. Without diminishing the Commonwealth's Attorney's authority to appoint, hire, or discharge his employees, the Commonwealth's Attorney agrees that he and his employees will follow the County's personnel policies in force during the period of this Agreement except as otherwise required by law (Under Virginia Code § 15.2-1605, the employees of the Commonwealth's Attorney's Office will accrue and accumulate leave pursuant to the County's personnel policies, including accrual of amounts to exceed the six week vacation leave accrued limit due to the entry of this Agreement) and except as

specifically excluded by this section. The Commonwealth's Attorney agrees to follow all County personnel policies except the following:

1. Assignment and Transfer (Policy P-38)
2. Employee Reduction in Force Procedures (Policy P-30)
3. Employee Discipline (Policy P-22)
4. Employee Grievance Procedure (Policy P-03)
5. Employee Relations Principles (Policy P-01)
6. Termination of Employment (Policy P-26)
7. Effect of Criminal Conviction or Arrest (Policy P-05)

The County agrees to provide assistance and services to the Commonwealth's Attorney concerning the personnel matters referenced in this Agreement through its Department of Human Resources and its Finance Department. The Parties agree that the Department of Human Resources shall maintain personnel records of the employees of the Commonwealth's Attorney except for documents related to payroll, which shall be maintained by the County's Finance Department. The Commonwealth's Attorney agrees to forward any such documentation to the appropriate County department in a timely fashion.

The Commonwealth's Attorney agrees not to fail or refuse to appoint or hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions or privileges of appointment or employment, because of such individual's race, color, religion, sex, or national origin pursuant to Virginia Code § 15.2-1604 (A). The Commonwealth's Attorney agrees to assume all liability if he disregards employment advice provided by the County's Department of Human Resources. Further, the Commonwealth's Attorney agrees that he will conduct all aspects of a prospective employee background check except for a criminal background check. The Department of Human Resources will conduct the prospective employee's criminal background check.

6. Administrative Policies. The Commonwealth's Attorney further agrees to comply with all Albemarle County Administrative Policies except AP-11 (Grants Process), AP-5 (Media Relations), and AP-4 (Inclement Weather). The Commonwealth's Attorney will follow the inclement weather schedule established by the Albemarle County Circuit Court.

7. Limitations on Benefits to Commonwealth's Attorney. The County and the Commonwealth's Attorney agree that only the Commonwealth's Attorney's employees shall receive the compensation and benefits as set forth herein. Such compensation and benefits shall be available to the Commonwealth's Attorney only to