



# Albemarle County

## Legislation Text

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**File #:** 17-184, **Version:** 1

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**AGENDA DATE:** 3/1/2017

**TITLE:**

Virginia Department of Agriculture and Consumer Services Grant

**SUBJECT/PROPOSAL/REQUEST:** Virginia Department of Agriculture and Consumer Services grant for easement acquisition

**ITEM TYPE:** Consent Action Item

**STAFF CONTACT(S):** Walker, Kamptner, Herrick, Gast-Bray, and Goodall

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

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Douglas C. Walker

**BACKGROUND:** The Virginia Department of Agriculture and Consumer Services ("VDACS") Office of Farmland Preservation has offered a \$86,950 grant to the County under a program first established by the 2007 General Assembly to provide funds for the preservation of working farms and forest lands.

Because the 2016 General Assembly appropriated only \$500,000 statewide for this year's grant program, the County's award is its smallest since 2011. The County previously has been awarded grants of \$411,890 in 2016, \$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. Albemarle County is one of only six localities to receive a grant this year, and one of only five 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 furnished a FY17 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 to apply these funds, they most likely will be applied to the highest-ranking easements from the most recent applicant pool, received on October 31, 2016. However, 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, and allow VDACS the opportunity to review easement instruments and the title insurance policy prior to closing;
  - provide 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 proposed FY17 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 any ACE easement(s) recorded after November 18, 2016, but before the full execution of the FY17 IGA, to be reimbursable under the terms of the FY17 IGA, provided that: 1) any such easement must conform to the requirements and procedures outlined in the FY17 IGA; 2) any approved reimbursement will not be paid to the County until after the FY17 IGA is fully executed; and 3) VDACS is under no obligation to reimburse the County if the recorded easement does not meet the requirements set forth in the FY17 IGA or if VDACS' matching funds to the County are reprogrammed, reduced, or eliminated prior to the full execution of the FY17 IGA. Staff has reviewed the Pre-award Notification and also finds its terms acceptable.

**BUDGET IMPACT:** The County's execution of the FY17 IGA would allow the County to receive \$86,950 in state funding to apply to the ACE program. In order to receive these funds, the County itself must have appropriated matching funds of at least \$86,950. That local match is available through funds previously appropriated for ACE by the Board in FY17.

**RECOMMENDATION:**

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 after approval as to form and substance by the County Attorney.

**ATTACHMENTS:**

- A - FY17 Intergovernmental Agreement
- B - VDACS Pre-award Notification
- C - Resolution