MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is dated October ___, 2016, and is entered into by and between the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "County"), and the **ECONOMIC DEVELOPMENT AUTHORITY OF ALBEMARLE COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "EDA").

The purpose of this Memorandum of Understanding is to state the respective roles of the County and the EDA in implementing the County's policies, objectives, and goals pertaining to economic development as provided in the County's Comprehensive Plan.

The County and the EDA agree that the County's goal for economic development – to create and maintain a strong, diverse, and sustainable economy, to retain existing businesses, and to promote new local ventures, all of which will benefit the County's citizens – is also the goal of the EDA.

The County and the EDA also agree that promoting and assisting in the retention or expansion of existing businesses is a higher priority than attracting new businesses, and that the actions of the County and the EDA described below should be guided by that prioritization.

Lastly, the County and the EDA acknowledge that successful economic development is intrinsically tied to the sound planning policies and principles established in the County's Comprehensive Plan.

> **<u>Comment</u>: This statement is new, added to emphasize the principle that the County's Comprehensive Plan will be the guiding force in successful economic development. This means that the County's Development Areas will be where commercial and industrial development is located, and that the Development Areas will not be expanded unless the need is demonstrated as explained in the Comprehensive Plan. However, the EDA has in the past, and would be expected to continue in the future, to promote agricultural business enterprises through, among other things, grants funded by the County and the State.**

1. The EDA will, to the extent that it is authorized under the Industrial Development and Revenue Bond Act (Virginia Code § 15.2-4900, *et seq.*), and to the extent that it has funding for these purposes:

A. Promote new employment activities, particularly those target industries identified in the 2012 Target Industry Study on lands designated as Development Areas in the Comprehensive Plan. (ED Strategy 1a)

B. Promote agriculture, forestry, and agricultural business enterprises on lands designated as Rural Area in the Comprehensive Plan that help support the Rural Area goals for a strong agricultural and forestal economy. (ED Strategy 1b)

> **<u>Comment</u>: The term "agricultural business" enterprises replaces the term "agribusiness" enterprises. Even though the Comprehensive Plan uses the term "agribusiness" in this particular Economic Development strategy, "agricultural business" is used elsewhere in the MOU and it is desired to use consistent terminology.**

C. Promote and assist business retention and expansion on lands designated as Development Areas in the Comprehensive Plan. (ED Strategy 2b)

D. Use the 2012 Target Industry Study to guide its actions pertaining to business retention and expansion and new business. (ED Strategy 3a)

E. Assist existing businesses where agriculture is a main component. (ED Strategy 3g)

F. Assist existing agricultural businesses. (ED Strategy 3h)

G. Promote and assist in the establishment and expansion of businesses on lands designated as Development Areas in the Comprehensive Plan on appropriately zoned lands. (ED Strategy 4b)

H. Promote and assist in the redevelopment of underutilized commercially- and industrially-zoned lands designated as Development Areas in the Comprehensive Plan. (ED Strategy 4c)

I. Promote and assist, on its own or in conjunction with other organizations or public bodies, small, locally owned, local agricultural businesses, minority-owned businesses, and micro-enterprises in their start-up and early operation efforts. (ED Strategy 6d)

J. Create appropriate incentives that address the needs of the target industries and emerging businesses. (ED Strategy 6e)

K. Promote and assist in relocating nonconforming businesses in the Rural Areas zoning district to lands designated as Development Areas in the Comprehensive Plan. As provided in Section 4(A), the EDA will obtain the Board of Supervisors' prior consent before it assists a business in establishing or expanding its use on lands designated Rural Area in the Comprehensive Plan if the business use is inconsistent with the Comprehensive Plan.

Comment: The second sentence is added to link this provision to Section 4(A) as a companion provision.

L. Allocate its emphasis on the following tasks as prioritized by the Board of Supervisors and directed in the Economic Development Strategic Plan:

1. Existing business retention or expansion
2. New business establishment
3. Workforce development
4. Real estate development and redevelopment
5. Business attraction

2. The County, through its Board of Supervisors, will:

A. Reasonably and timely consider all matters of the EDA which federal or state law or this Memorandum of Understanding requires action by the Board, including any proposed bond issuance by the EDA.

B. Continue the Economic Opportunity Fund, subject to appropriation.

3. The County and the EDA will:

A. Work cooperatively and in close coordination to achieve the County's goal for economic development.

B. Consider entering into a new Memorandum of Understanding after the County's Board of Supervisors adopts an Economic Development Strategic Plan.

Comment: Former Section 3(C) is moved to Section 5(B).

4. The EDA will obtain prior consent of the County's Board of Supervisors before it:

Comment: The word "approval" is changed to "consent" to more accurately reflect that the Board is consenting to the EDA proceeding, rather than the Board approving the proposed project.

A. Promotes and advocates establishing or expanding a business on lands designated as Rural Area in the Comprehensive Plan in order to allow a business to be established, or an existing business to be expanded, in the Rural Area if the business use is inconsistent with the Comprehensive Plan, including the land use policies of the Rural Area chapter of the Comprehensive Plan.

Comment: This subsection is revised to clarify that Board consent is required before the EDA works with a business located, or to be located, on lands designated as Rural Area in the Comprehensive Plan if the business use is inconsistent with the Plan. The revised subsection also specifically requires that the business use be consistent with the land use policies of the Rural Area chapter of the Plan. With this latter revision, Section 4(B), which pertained to existing or proposed businesses on lands designated Rural Area in the Plan but not in the Rural Areas zoning district, can be deleted.

B. Acquires by any means possible, or assists any business or venture in acquiring, lands designated as Rural Area in the Comprehensive Plan in order to allow a business to be established, or an existing business to be expanded, in the Rural Area if the business use is not allowed by right or by special use permit in the Rural Areas zoning district.

Comment: This subsection is former Section 4(C). It is revised to require prior Board consent if the business use is not allowed by special use permit in the Rural Areas zoning district.

The parties affirm that, on lands designated as Rural Area in the Comprehensive Plan, the primary role of the EDA is to promote the economic development of the Rural Area in a manner that is fully consistent with the land use policies of the Rural Area chapter of the Comprehensive Plan and, in particular, promoting agriculture, forestry, and agricultural business enterprises that help support a strong agricultural and forestry economy.

Comment: This paragraph is new and affirms the primary role of the EDA on lands designated Rural Area in the Comprehensive Plan. The paragraph at the end of Section 4 of the prior draft is moved to Section 5(D). As explained in more detail in the comments following Section 8, the Board would have to approve any required zoning action which would be evaluated for consistency with the Comprehensive Plan.

5. Interpretation and implementation. This Memorandum of Understanding shall be interpreted and implemented as follows:

Comment: This section is new, and it is a compilation of some subsections that appeared in various sections of the prior draft (subsections (B) and (C)) and adds two new provisions

(subsections (A) and (D)).

A. The interpretation of the Comprehensive Plan shall be the sole responsibility of the Board of Supervisors or its express designee.

<u>Comment</u>: This subsection is new, added to expressly state that the Board has the final say as to how the Comprehensive Plan is to be interpreted in the implementation of this MOU.

B. The terms used in this Memorandum of Understanding, including, but not limited to, "Development Areas," "Rural Area," and "Target Industry," will be interpreted as they are defined or described in the County's Comprehensive Plan or Zoning Ordinance, as applicable in the context in which they are used.

<u>Comment</u>: This subsection is moved from Section 3(C) of the prior draft.

C. As used in Section 4, the term "expansion" means any change that increases a building footprint.

<u>Comment</u>: This subsection is new.

D. Notwithstanding Sections 4(A) and (B), neither the EDA nor its individual members shall be prohibited from discussing potential economic development projects with landowners and businesses in order to gather information for the Board of Supervisors' consideration and deliberation. The EDA will communicate relevant information to the Board of Supervisors.

<u>Comment</u>: This subsection is moved from the end of Section 4 in the prior draft, and is revised to reflect the reorganization of Section 4 in this draft.

6. <u>Amendment</u>. This Memorandum of Understanding may be amended at any time in writing by mutual agreement of the County and the EDA.

<u>Comment</u>: This section is new and partially replaces Section 5 of the prior draft. The prior draft MOU consolidated both the amendment and termination provisions in a single section.

7. <u>Termination</u>. This Memorandum of Understanding may be terminated at any time by mutual agreement of the County and the EDA, or by the County after first providing 60 days' written notice to the chair of the EDA.

<u>Comment</u>: This section is new and partially replaces Section 5 of the prior draft. The prior draft MOU consolidated both the amendment and termination provisions in a single section. The prior draft provided that the MOU could be terminated by mutual agreement of the County and the EDA. The revised section clarifies that the parties may terminate the MOU by mutual agreement at any time, and that the County may terminate the MOU with 60 days' written notice.

8. <u>Legislative powers preserved</u>. This Memorandum of Understanding does not restrict or alter any legislative power of the Board of Supervisors under the Industrial Development and Revenue Bond Act or any other law.

<u>Comment</u>: This section is new. Several members of the public have commented that the Board would be abrogating its powers by entering into this MOU. The MOU could not have such an effect on the Board's powers, and it was never intended to have such an effect, even if that was legally possible. The Board also retains its powers under the Industrial Development and

Revenue Bond Act to restrict the type and number of facilities that the EDA may finance. Moreover, to the extent that the EDA requires funding from the County to accomplish its objectives, the Board retains its power to impose conditions on how the EDA may spend the money. Nonetheless, this section is added to provide further emphasis and clarity.

The MOU also does not affect any of the Board's powers regarding land use planning and zoning. Therefore, any proposed economic development project that requires any kind of zoning approval (a zoning text amendment, a zoning map amendment, a special use permit, or a special exception) requires the Board's approval of that zoning action. Any zoning action would be evaluated by the County staff, the Planning Commission, and the Board for consistency with the Comprehensive Plan.

SIGNATURES ARE ON THE FOLLOWING PAGE

COUNTY OF ALBEMARLE, VIRGINIA

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Liz Palmer, Chair
Board of County Supervisors

ECONOMIC DEVELOPMENT AUTHORITY OF ALBEMARLE COUNTY, VIRGINIA

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W. Rod Gentry, Chair