

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding dated as of the date of the last signature below is between the Commonwealth's Attorney of Dinwiddie County (the "Commonwealth's Attorney"), a state constitutional officer, and the Board of Supervisors of the County of Dinwiddie (the "County"), collectively, the "Parties." This Memorandum of Understanding sets forth operational and administrative responsibilities of the parties with respect to personnel appointed by the Commonwealth's Attorney.

The Parties recognize that the Commonwealth's Attorney is the statutory and common law employer for the individuals hired to work for her. Nothing in the Memorandum of Understanding shall alter or defeat that status. Whenever the term "employee" is used in this Memorandum of Understanding, it shall be synonymous with "appointee."

Article I. Commonwealth's Attorney

1. Consistent with the Personnel Policies of Dinwiddie County, the Commonwealth's Attorney will be responsible for the hiring and evaluating of all persons engaged to perform duties for her office. Discipline, terminations, and grievance procedures will be the responsibility of the Commonwealth's Attorney as well.
2. The Commonwealth's Attorney agrees to inform prospective employees both at the time of (i) interviewing prospective employees and (ii) offering prospective employees employment that such employees would be the Commonwealth's Attorney's employees and not employees of the County, that the County is merely the fiscal and administrative agent of the Commonwealth's Attorney, and that employees are hired at an at-will basis. The Commonwealth's Attorney agrees (i) to provide a copy (which may include an electronic copy) of this Memorandum of Understanding to all of her current employees upon the execution of this Memorandum of Understanding and (ii) to allow the County to provide a copy (which may include an electronic copy) of this Memorandum of Understanding to all of her future employees upon the commencement of their employment.
3. The Commonwealth's Attorney agrees to coordinate the hiring date of her employees with the County's hiring schedule.
4. The Commonwealth's Attorney agrees to follow the County's background check policy and follow the County's drug test policy with respect to her employees.
5. The Commonwealth's Attorney agrees to require her employees to meet with the County's human resources office immediately upon hire to complete all personnel information, such as the "New Hire Form," I-9 Form, and employee benefit forms. The County will be responsible for maintaining the official personnel record and will maintain required personnel information in accordance with the policies established by the Compensation Board and the County.
6. The Commonwealth's Attorney agrees to require employees to complete time and leave records on a work period basis and to forward them to the County's payroll office according to the processes established by the payroll office.
7. The Commonwealth's Attorney agrees to abide by all equal employment opportunity laws and regulations, to inform her employees of the rights afforded to them under these laws, and to strictly adhere to the provisions of Section 15.2-1604 of the Code of Virginia. The Commonwealth's Attorney agrees to have her supervisory employees, if any, trained on Equal

Employment Opportunity Act (“EEO”), Family and Medical Leave Act (“FMLA”), Fair Labor Standards Act (“FLSA”), and Americans with Disabilities Act (“ADA”) and to familiarize herself with those laws. The Commonwealth’s Attorney agrees that the enforcement of such laws among her employees is her sole responsibility and not the County’s responsibility.

8. The Commonwealth’s Attorney agrees that she will adopt and use the personnel policies, performance evaluation system (unless using a more comprehensive, prior approved, compensation board performance evaluation system), and compensation plan of the County. Grievance procedures may, at the option of the Commonwealth’s Attorney, be established by the Commonwealth’s Attorney’s office and followed by the Commonwealth’s Attorney.

9. The Commonwealth’s Attorney agrees to permit the County to post all required employment notices as required by applicable law.

10. The Commonwealth’s Attorney agrees to work with the County to ensure that her employees receive full protections including premium pay for overtime hours under the Fair Labor Standards Act; provided, however, that the Commonwealth’s Attorney agrees to schedule her employees such that she does not expend more than the sum that has been appropriated to the Commonwealth’s Attorney by the Board of Supervisors, if any, for overtime and premium pay. If the Commonwealth’s Attorney expends more than has been appropriated to her, then she must ask for further appropriations from the Board of Supervisors, and the Board of Supervisors shall be under no obligation to grant such appropriations.

11. To the extent allowed by law and the personnel policies of the County, the Commonwealth’s Attorney agrees to require her employees to use their accumulated paid leave to cover FMLA and ADA absences.

12. The Commonwealth’s Attorney agrees to immediately inform the County of any workplace accidents or injuries. Furthermore, the Commonwealth’s Attorney agrees to follow the workplace accident or injury notification process adopted by the County.

13. The Commonwealth’s Attorney agrees to consult with the County prior to responding to all federal and state administrative requests for employment information, including but not limited to reports to the Equal Employment Opportunity Commission, the Virginia Human Rights Commission, the U.S. Department of Labor, the Virginia Employment Commission, or other state or federal agencies.

14. The Commonwealth’s Attorney agrees, upon receipt of pertinent information, to inform the County when an event triggering the issuance of a COBRA notice occurs (i.e. on the termination of employment, the death of a covered spouse or dependent, marital separation or divorce, or a child losing dependent coverage status).

15. The Commonwealth’s Attorney agrees that, for the purpose of annual and sick leave earned, used, and cashed in at termination, her employees will have the same benefits as County employees.

16. Unless otherwise directed by the Chief Judge or another judge acting his or her place, the Commonwealth’s Attorney agrees that her employees will have the same holidays and office hours as are kept by the County, except that her office’s official hours will be from 8:30 a.m. to 4:30 p.m. daily.

17. The Commonwealth’s Attorney agrees to notify each employee in writing upon hiring or change in job classification of the employee’s exempt status under the Fair Labor Standards Act.

18. The Commonwealth’s Attorney agrees not to allow her employees to accrue compensatory leave balances, but to pay any overtime balances required by the Fair Labor Standards Act at the

end of each pay period. The Commonwealth's Attorney agrees that any flexing of hours will occur only within pay periods as allowed for by the Fair Labor Standards Act.

19. The Commonwealth's Attorney agrees to notify the County of any changes in compensation or employment status of her employees using the County's personnel action request form; provided, however, that nothing in this notification requirement shall alter or defeat the Commonwealth's Attorney's ability to hire, discipline, and fire her employees.

20. The Commonwealth's Attorney agrees to abide by all fiscal policies and procedures of the County, including, but not limited to, the County's travel request procedures, the County's purchasing card policy, and the Dinwiddie County Purchasing Policies and Procedures, and is also encouraged to consult with the Procurement Office on all micro purchases, including office supplies, of less than \$5,000 to ensure that public funds are responsibly spent.

21. The Commonwealth's Attorney agrees to abide by all information technology and Public Records Act policies adopted by the County.

Article II. County

1. The County agrees to act as fiscal and administrative agent for all personnel transactions.

2. The County agrees to bring the Commonwealth's Attorney's employees under its pay plan and to provide these employees with the same compensation and benefits that it provides to its employees.

3. Whenever the County provides to substantially all of its full and part-time employees an increase in salary such as the COLA (Cost Of Living Adjustment) or a merit increase, the increase will be given to the full and part-time employees of the Commonwealth's Attorney under the same terms as for County employees. Whenever the County funds such a compensation increase, the employees of the Commonwealth's Attorney will receive their COLA increases only upon the submission of a satisfactory annual performance evaluation rating provided that the Commonwealth's Attorney uses the County performance evaluation forms (as determined above) and the policies of the County.

4. The County agrees to prepare and issue all pay disbursements and to make the required payroll deductions.

5. The County agrees to permit the Commonwealth's Attorney's employees to participate in the same deferred compensation, flexible spending accounts, and flexible benefit programs that are offered to County employees.

6. The County agrees to permit the Commonwealth's Attorney's employees to participate in all personnel training programs and benefit fairs provided to its employees.

7. The County agrees to place the Commonwealth's Attorney's employees on a pay grade and a pay step of the County's compensation plan based on the salary the employee receives on the effective date of this agreement.

8. Subject to future appropriations and the final terms of the training and certification program described below, the County agrees to allow the Commonwealth's Attorney's employees to be included in any training and certification program implemented by the County for the County's employees. Notwithstanding the foregoing, nothing in this Paragraph 8 of Article II shall obligate the County to provide any employee of a constitutional officer with a salary increase of more than one step on the County's Compensation Plan.

III. Mutual Understandings

1. The COLA and merit increases when given to the Commonwealth's Attorney's employees are in lieu of, and not in addition to, any increase in compensation provided by the compensation board, except for additional reimbursement provided by the compensation board for Professional Career Development Certification as recognized by the Compensation Board. The funds received from the Compensation Board for employee compensation increases shall be deposited into the unallocated general funds of the County.
2. This Agreement shall not be interpreted to make an employee of the Commonwealth's Attorney an employee of the County. The statutory and common law employer will remain the Commonwealth's Attorney.
3. The Parties recognize that this Agreement shall not abrogate any rights that the Commonwealth's Attorney may have regarding any matter not embraced in this Agreement.
4. Either the Commonwealth's Attorney or the County may terminate this Agreement by providing 60 days written notice. If the Commonwealth's Attorney should so terminate this agreement, it is understood that the County will not consider renegotiating another agreement of this nature with the Commonwealth's Attorney during the Commonwealth's Attorney's current term of office unless agreed by the County to do so. It is also understood that should either Party terminate this agreement, the County may (i) no longer provide her employees with the differential in pay, if any, between that authorized by the Compensation Board and by that given by the County under this Agreement and/or (ii) no longer serve as fiscal and administrative agent for the Commonwealth's Attorney.
5. This Agreement shall terminate in the event the County does not appropriate funds for continuation of this Agreement.
6. This Agreement shall commence as of the date of the last signature below, and is effective until the Commonwealth's Attorney's term in office expires, but can be revalidated with each successive Commonwealth's Attorney.

Witness the following signatures and seals:



COMMONWEALTH'S ATTORNEY
OF DINWIDDIE COUNTY

Date: 3/31/21

APPROVED AS TO FORM:

COUNTY ADMINISTRATOR
OF DINWIDDIE COUNTY

Date: _____

COUNTY ATTORNEY

Date: _____