

ACTIONS
Board of Supervisors Meeting of December 6, 2017

December 7, 2017

<u>AGENDA ITEM/ACTION</u>	<u>ASSIGNMENT</u>	<u>VIDEO</u>
1. Call to Order. <ul style="list-style-type: none"> Meeting was called to order at 1:02 p.m., by the Chair, Ms. McKeel. All BOS members present. Also present were Claudette Borgersen, Greg Kamptner, Travis Morris and Jeff Richardson. 		Link to Video
4. Adoption of Final Agenda. <ul style="list-style-type: none"> Moved agenda item #22 up to agenda item #9. By a vote of 6:0, ADOPTED the final agenda. 		
5. Brief Announcements by Board Members. <u>Ann Mallek:</u> <ul style="list-style-type: none"> Mentioned the passing of John Sweeney, a founding member of the Earlysville Fire Department. Requested that residents with questions regarding Stormwater reach out to Supervisors. <u>Rick Randolph:</u> <ul style="list-style-type: none"> Mentioned the Glenmore Homeowners Association and reaffirmed its Rental Restriction Policy. 		
6. Proclamations and Recognitions: <ul style="list-style-type: none"> a. Innovation Award from Virginia Government Finance Officers' Association. <ul style="list-style-type: none"> Presented to Rocio Lamb. 		
7. From the Public: Matters Not Listed for Public Hearing on the Agenda. <ul style="list-style-type: none"> <u>The following individuals addressed the Board concerning the potential relocation of the county courts:</u> <ul style="list-style-type: none"> <u>Jim Hingeley</u> <u>Bruce Williamson</u> <u>Leigh Middleditch</u> <u>Elaine Poon</u> <u>Robert Tracci</u> <u>Jeff Werner</u> <u>Palma Pastilnik</u> <u>Morgan Butler</u>, spoke toward agenda item #9 "Review of County Stream Buffer Regulations". <u>Nancy Hunt</u>, President of the Places 29 Rio Community Advisory Committee, presented Supervisor Brad Sheffield with a Certificate of Appreciation. <u>Marta Keane</u>, resident of Rio district and JABA CEO, reported on JABA's on-going community efforts. 		
8.2 FY 2017 Appropriations. <ul style="list-style-type: none"> ADOPTED Resolution to approve appropriations #2018053, #2018054, #2018055, and #2018056 for local government and school division projects. 	<u>Clerk:</u> Notify OMB, Finance and appropriate individuals. Forward copy of signed resolution to OMB and County Attorney's office. (Attachment 1)	

8.3	<p>Charlottesville-UVA-Albemarle Regional Emergency Operations Plan.</p> <ul style="list-style-type: none"> ADOPTED Resolution approving the updated Charlottesville-UVA-Albemarle Regional Emergency Operations Plan. 	<p><u>Clerk:</u> Forward copy of signed resolution to ECC and County Attorney's office. (Attachment 2)</p>	
8.4	<p>Appointment of Replacement Assistant Fire Marshals.</p> <ul style="list-style-type: none"> ADOPTED resolutions appointing Captain Micaiah Ledford and Firefighter Zachary Matthews as Assistant Fire Marshals with police powers. 	<p><u>Clerk:</u> Forward copy of signed resolution to County Attorney's office and Albemarle County Fire Rescue Office of the Fire Marshal. (Attachments 3 and 4)</p>	
8.5	<p>Arrowhead Farm Lane Road Name Change.</p> <ul style="list-style-type: none"> ADOPTED resolution approving changing the road name of Arrowhead Farm Lane to Arrowhead Farm and authorized staff to implement the change. 	<p><u>Information Services:</u> Proceed as authorized. (Attachment 5)</p>	
8.6	<p>Downtown Crozet Initiative Resolution for DHCD Commercial District Affiliate Status.</p> <ul style="list-style-type: none"> ADOPTED Resolution authorizing participation in the DHCD commercial district affiliate program. 	<p><u>Clerk:</u> Forward copy of signed resolution to OMB and County Attorney's office.</p> <p><u>County Attorney:</u> Provide Clerk with copy of executed agreement. (Attachment 6)</p>	
8.7	<p>Extension of Deferral Request for ZMA2010-00018 Crozet Square.</p> <ul style="list-style-type: none"> APPROVED an extension of deferral for the application to be heard by the Board of Supervisors no later than December 12, 2018 for ZMA2010-00018. 	<p><u>Community Development:</u> Proceed as approved.</p>	
8.8	<p>ZMA201300012 Rivanna Village - Special Exception Request.</p> <ul style="list-style-type: none"> ADOPTED resolution to approve the special exceptions. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 7)</p>	
8.9	<p>SDP201600029 Spring Hill Village Special Exception Request.</p> <ul style="list-style-type: none"> ADOPTED resolution to approve the special exceptions. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development and County Attorney's office. (Attachment 8)</p>	
8.10	<p>VDOT Project 9999-002-900, C-501, B-676</p> <ul style="list-style-type: none"> ADOPTED resolution. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development. (Attachment 9)</p>	
8.11	<p>Connor's Ridge Subdivision</p> <ul style="list-style-type: none"> ADOPTED resolution. 	<p><u>Clerk:</u> Forward copy of signed resolution to Community Development. (Attachment 10)</p>	
	<p>Commonwealth Attorney Positon/Supplement Request and Memorandum of Understanding.</p> <ul style="list-style-type: none"> Motion to allocate surplus funds from FY17 to fund the Commonwealth's Attorney position requests passed by a vote of 6:0. 	<p><u>OMB:</u> Proceed as approved.</p>	
9.	<p>Review of County Stream Buffer Regulations.</p> <ul style="list-style-type: none"> By a vote of 6:0, ENDORSED staffs' recommendation to address the stream buffer review process in two phases, treating the Development Areas and the Rural Area as separate phases; and 	<p><u>Greg Harper:</u> Proceed as directed.</p>	

	<ul style="list-style-type: none"> • ENDORSED staffs' recommendation to address the Development Areas in the first phase. 		
10.	Work Session: Stormwater Infrastructure Management Program. <ul style="list-style-type: none"> • HELD. 		
	Recess. <ul style="list-style-type: none"> • At 3:13 p.m., the Board recessed and reconvened at 3:24 p.m. 		
11.	Work Session: Two Year Balanced Fiscal Plan in Context of Five Year Financial Plan with Public Comment on 2 Year Balanced Fiscal Plan. <ul style="list-style-type: none"> • HELD. 		
12.	FY17 Comprehensive Annual Financial Report (CAFR). <ul style="list-style-type: none"> • By a vote of 6:0, ACCEPTED FY 17 Comprehensive Annual Financial Report. 		
13.	Board-to-Board, November 2017, A Monthly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors. <ul style="list-style-type: none"> • RECEIVED. 		
14.	GO Virginia Grants. <ul style="list-style-type: none"> • RECEIVED. 		
15.	Closed Meeting. <ul style="list-style-type: none"> • At 5:34 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia: • Under Subsection (1), to discuss and consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointment. • Under Subsection (3), to discuss and consider the acquisition of real property in the southern part of the County, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County. • Under Subsection (5), to discuss the expansion of an existing business in the County where no previous announcement has been made of the business' interest in expanding its facilities in the community. • Under Subsection (8), to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice about activities on a preservation tract in a rural preservation development. 		
16.	Certify Closed Meeting. <ul style="list-style-type: none"> • At 6:04 p.m., the Board reconvened into open meeting and certified the closed meeting. 		
17.	Boards and Commissions: a. Vacancies and Appointments. <ul style="list-style-type: none"> • REAPPOINTED, Mr. Ross Stevens to the Acquisition of Conservation Easements (ACE) Appraisal Review Committee with said term to expire December 31, 2018. • REAPPOINTED, Mr. Brian Campbell and Mr. Eric Walden to the Charlottesville/Albemarle Joint Airport Commission with said terms to 	<u>Clerk:</u> Prepare appointment/reappointment letters, update Boards and Commissions book, webpage, and notify appropriate persons.	

	<p>expire December 1, 2020.</p> <ul style="list-style-type: none"> • APPOINTED, Ms. Emily Luebke, Ms. Dorothy Tompkins and Mr. Michael Rodemeyer to the Natural Heritage Committee with said terms with expire September 30, 2021. • APPOINTED, Ms. Rita Krenz to the Pantops Community Advisory Committee with said term to expire June 30, 2019. • REAPPOINTED, Mr. Zachary Wheat to the Rivanna River Basin Commission with said term to expire April 30, 2021. 	
18.	<p>From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> • <u>The following individuals spoke on behalf of IMPACT in regards to affordable housing for seniors and people with disabilities in the County:</u> <ul style="list-style-type: none"> • <u>Vikki Bravo</u> • <u>Julia Sakellarios</u> • <u>Jon Zug</u>, resident of the Rio district and Clerk of the Circuit Court, advocated for the Board to endorse the plan to keep the county courts in its current location. • <u>Gary Grant</u>, resident of the Rio district spoke towards agenda item #24, Open-air Burning and Air Quality Complaints. 	
19.	<p><u>Pb. Hrg: Virginia Community Development Block Grant..</u></p> <ul style="list-style-type: none"> • By a vote of 6:0, SET public hearing for March 7, 2018. 	<p><u>Clerk:</u> Schedule on agenda and advertise in Daily Progress.</p>
20.	<p>B.F. Yancey Near-Term Uses.</p> <ul style="list-style-type: none"> • By a vote of 6:0, APPROVED the BF Yancey Transition Advisory Committee recommendations for near-term uses, supported through FY 18 funding sources identified by staff. 	<p><u>Emily Kilroy/Michael Freitas:</u> Proceed as approved.</p>
21.	<p>Senior Center at Belvedere.</p> <ul style="list-style-type: none"> • By a vote of 6:0, ADOPTED resolution authorizing the Chair to execute the Agreement on behalf of the County once it has been approved as to substance and form by the County Attorney. 	<p><u>Clerk:</u> Forward copy of signed resolution to County Attorney's office. (Attachment 11)</p> <p><u>County Attorney:</u> Provide Clerk with copy of executed agreement. (Attachment 12)</p>
22.	<p>Commonwealth Attorney Positon/Supplement Request and Memorandum of Understanding.</p> <ul style="list-style-type: none"> • Moved up on agenda. 	
23.	<p>FY17-FY19 Strategic Plan Annual Report.</p> <ul style="list-style-type: none"> • RECEIVED. 	
24.	<p>Open-air Burning and Air Quality Complaints.</p> <ul style="list-style-type: none"> • DISCUSSED. 	
25.	<p>From the Board: Committee Reports and Matters Not Listed on the Agenda.</p> <p><u>Brad Sheffield:</u></p> <ul style="list-style-type: none"> • Commented on the payment methods at the Ivy Material Utilization Center. <p><u>Ann Mallek:</u></p>	

	<ul style="list-style-type: none"> Mentioned the Piedmont Work Force Network incumbent worker training funds are available through March of 2018. Asked Mr. Kamptner if there is a timetable for Airbnb's and Bees to come back before the Board. <p><u>Liz Palmer:</u></p> <ul style="list-style-type: none"> Commented on the water level at Sugar Hollow. 		
26.	<p>From the County Executive: Report on Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> There were none. 		
27.	<p>Closed Session.</p> <ul style="list-style-type: none"> At 8:23 p.m., the Board went into a Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia: Under Subsection (8), to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring legal advice about: <ol style="list-style-type: none"> An agreement to which the County is a party, and which pertains to a County-supported public body; and The applicable procedures to relocate the County courthouse, if the Board directs staff to further examine that option in an upcoming Board meeting. 		
	<p>Certify Closed Meeting.</p> <ul style="list-style-type: none"> At 8:47 p.m., the Board reconvened into open meeting and certified the closed meeting. 		
28.	<p>Adjourn to December 13, 2017, 2:00 p.m., Lane Auditorium.</p> <ul style="list-style-type: none"> The meeting was adjourned at 8:48 p.m. 		

ckb/tom

Attachment 1 – Resolution to Approve Additional FY18 Appropriation

Attachment 2 – Resolution for Emergency Operations Plan

Attachment 3 – Resolution to Appoint Micaiah Ledford as an Assistant Fire Marshal with Police Powers

Attachment 4 – Resolution to Appoint Zachary Matthews as an Assistant Fire Marshal with Police Powers

Attachment 5 – Resolution to Change the Name of Arrowhead Farm to Land to Arrowhead Farm

Attachment 6 – A Resolution Authorizing Participation in the DHCD Commercial District Affiliate Program

Attachment 7 – Resolution to Approve Special Exception for ZMA2013-12 Rivanna Village to Vary the Code of Development

Attachment 8 – Resolution to Approve Special Exception for ZMA201300007 Spring Hill Village to Vary Road Alignment, Block Sizes and Phasing on Application Plan and Code of Development

Attachment 9 – VDoT Resolution – VDOT Project 9999-002-900, C-501, B-676

Attachment 10 – VDoT Resolution – Connor's Ridge Subdivision

Attachment 11 – Resolution to Approve the Agreement between the County of Albemarle and the Senior Center, Incorporated

**RESOLUTION TO APPROVE
ADDITIONAL FY 18 APPROPRIATIONS**

BE IT RESOLVED by the Albemarle County Board of Supervisors:

- 1) That Appropriations #2018053, #2018054, #2018055, and #2018056 are approved; and
- 2) That the appropriations referenced in Paragraph #1, above, are subject to the provisions set forth in the Annual Resolution of Appropriations of the County of Albemarle for the Fiscal Year ending June 30, 2018.

RESOLUTION FOR EMERGENCY OPERATIONS PLAN

WHEREAS, the Board of Supervisors of Albemarle County, Virginia recognizes the need to prepare for, respond to, and recover from natural and manmade disasters; and

WHEREAS, the County has a responsibility to provide for the safety and well- being of its citizens and visitors; and

WHEREAS, the County has established and appointed a Director and Coordinator of Emergency Management;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Albemarle County, Virginia, this Emergency Operations Plan as revised is officially adopted, and

IT IS FURTHER RESOLVED AND ORDERED that the Director of Emergency Management, or his/her designee, is tasked and authorized to maintain and revise as necessary this document during the next four (4) year period or until such time it be ordered to come before this Board.

**RESOLUTION TO APPOINT Micaiah Ledford
AS AN ASSISTANT FIRE MARSHAL WITH POLICE POWERS**

WHEREAS, Virginia Code § 27-30 provides that the governing body of a county may appoint a fire marshal and Albemarle County Code § 6-111 establishes the Office of the Fire Marshal; and

WHEREAS, Albemarle County Codes §§ 6-111, 6-200 and 6-201 recognize the Fire Marshal as Albemarle County's Fire Official for the duties and responsibilities as established by Title 27 of the Virginia Code, the Virginia Statewide Fire Code, and the Albemarle County Code; and

WHEREAS, Virginia Code § 27-34.2:1 provides that the governing body of a county may authorize the fire marshal to have the same police powers as a sheriff, police officer or law-enforcement officers upon completion of the training discussed in such section; and

WHEREAS, Virginia Code § 27-36 provides that the governing body of a county may appoint one or more assistants, who, in the absence of the fire marshal, shall have the powers and perform the duties of the fire marshal; and

WHEREAS, the appointment of Micaiah Ledford as an Assistant Fire Marshal with police powers will promote the efficient and effective operation of the Albemarle County Department of Fire and Rescue.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby appoints Micaiah Ledford as an Assistant Fire Marshal with full police powers of the Fire Marshal as authorized in Virginia Code §§ 27-34:2:1 and 27-36 and Albemarle County Code § 6-111.

**RESOLUTION TO APPOINT Zachary Matthews
AS AN ASSISTANT FIRE MARSHAL WITH POLICE POWERS**

WHEREAS, Virginia Code § 27-30 provides that the governing body of a county may appoint a fire marshal and Albemarle County Code § 6-111 establishes the Office of the Fire Marshal; and

WHEREAS, Albemarle County Codes §§ 6-111, 6-200 and 6-201 recognize the Fire Marshal as Albemarle County's Fire Official for the duties and responsibilities as established by Title 27 of the Virginia Code, the Virginia Statewide Fire Code, and the Albemarle County Code; and

WHEREAS, Virginia Code § 27-34.2:1 provides that the governing body of a county may authorize the fire marshal to have the same police powers as a sheriff, police officer or law-enforcement officers upon completion of the training discussed in such section; and

WHEREAS, Virginia Code § 27-36 provides that the governing body of a county may appoint one or more assistants, who, in the absence of the fire marshal, shall have the powers and perform the duties of the fire marshal; and

WHEREAS, the appointment of Zachary Matthews as an Assistant Fire Marshal with police powers will promote the efficient and effective operation of the Albemarle County Department of Fire and Rescue.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby appoints Zachary Matthews as an Assistant Fire Marshal with full police powers of the Fire Marshal as authorized in Virginia Code §§ 27-34:2:1 and 27-36 and Albemarle County Code § 6-111.

**RESOLUTION TO CHANGE THE NAME OF ARROWHEAD FARM
LANE TO ARROWHEAD FARM**

WHEREAS, Virginia Code § 15.2-2019 enables the County to rename any road at any time; and

WHEREAS, the County's Road Naming and Property Numbering Ordinance and Manual establish policies and guidelines for naming roads; and

WHEREAS, the County's Road Naming and Property Numbering Ordinance and Manual provide that a road can be renamed with the approval of a majority of the property owners; and

WHEREAS, the landowner of the one property served by Arrowhead Farm Lane has submitted a request to change the road name of Arrowhead Farm Lane to Arrowhead Farm, and the above-referenced requirement has been met.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors hereby changes the name of Arrowhead Farm Lane to Arrowhead Farm, and directs the Board Clerk to forward a certified copy of this Resolution to the Albemarle County Circuit Court Clerk pursuant to Virginia Code § 15.2-2019, and directs staff to implement the change.

**A RESOLUTION AUTHORIZING PARTICIPATION IN THE
DHCD COMMERCIAL DISTRICT AFFILIATE PROGRAM**

WHEREAS, the Virginia Main Street has established the DHCD Commercial District Affiliate Program in the Virginia Department of Housing and Community Development to assist localities in developing public/private efforts to revitalize their downtown commercial areas, and;

WHEREAS, interested Virginia cities, towns, and counties that are exploring downtown revitalization, those that may not be eligible for designation or those that do not wish to meet Main Street requirements may participate as an Affiliate, and;

WHEREAS, Affiliate communities will have access to all Virginia Main Street training and limited on-site assistance, as resources permit, and;

WHEREAS, the DOWNTON CROZET INITIATIVE, INC. IN COLLABORATION WITH THE COUNTY OF ALBEMARLE desires to participate in the DHCD Commercial District Affiliate Program.

NOW THEREFORE BE IT RESOLVED BY THE COUNTY OF ALBEMARLE

SECTION 1. That the DOWNTON CROZET INITIATIVE, INC. IN COLLABORATION WITH THE COUNTY OF ALBEMARLE applies for selection to participate in the DHCD Commercial District Affiliate Program with the specific goal of economically revitalizing the designated downtown district within the context of historic preservation using the Main Street Approach;

SECTION 2. It is recognized that downtown revitalization requires an on-going commitment, continuous attention and a full public-private partnership. The Main Street program is considered one of many economic and community development tools used by a locality.

SECTION 3. The DOWNTON CROZET INITIATIVE, INC. AND COUNTY OF ALBEMARLE understand that participation as an Affiliate Community does not guarantee selection as a Designated Main Street Community, and we will be eligible to receive Affiliate Community services from Virginia Main Street as long as the requirements stated in the Program Guidelines are met.

SECTION 4. That the ALBEMARLE COUNTY DEPARTMENT OF ECONOMIC DEVELOPMENT is designated to assist in the submission of the application.

SECTION 5. This resolution does not imply any future County funding obligations. Like other organizations, the DCI will comply with the County's recently adopted policy, "Community Grants Policy" in applying for potential matching funding to Main Street Affiliate programming.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR ZMA2013-12 RIVANNA VILLAGE
TO VARY THE CODE OF DEVELOPMENT**

WHEREAS, the Owner of Tax Map Parcel Numbers 07900-00-00-025A0, 08000-00-00-04600, 08000-00-00-046A0, 08000-00-00-046C008000-00-00-046D0, 08000-00-00-046E0, 08000-00-00-05000, 08000-00-00-05100, 08000-00-00-052A0, 08000-00-00-055A0, 093A1-00-00-00300, 093A1-00-00-00400, 093A1-00-00-00200 filed a request for special exceptions to vary the Code of Development approved in conjunction with ZMA2013-12 Rivanna Village to amend the guest parking space requirements of Table 7.1 and to amend the lot regulations of Table 3.3.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the Memorandum prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-8.5.5.3, 18-33.5, and 18-33.9, the Albemarle County Board of Supervisors hereby approves the special exceptions to vary the Code of Development approved in conjunction with ZMA2013-12 Rivanna Village, as described hereinabove, subject to the conditions attached hereto.

* * *

ZMA 2013-12 Rivanna Village – Special Exception Conditions

1. Table 7.1 shall be revised as shown on the Exhibit entitled "Request for Special Exception for a Variation to the Code of Development Regarding "Guest Parking Spaces" for ZMA 2013-12 Rivanna Village" dated August 30, 2017.
2. Table 3.3 shall be revised as shown on the Exhibit entitled "Rivanna Village – ZMA 2013-12 – Variation Request, 3.3 Lot Regulations (Proposed)" dated May 30, 2017.

**RESOLUTION TO APPROVE SPECIAL EXCEPTION
FOR ZMA201300007 SPRING HILL VILLAGE
TO VARY ROAD ALIGNMENT, BLOCK SIZES AND PHASING ON APPLICATION PLAN AND CODE
OF DEVELOPMENT**

WHEREAS, the Owner of Tax Map Parcel Number 09000-00-00-02800 filed a request for a special exception to vary the Application Plan and Code of Development approved in conjunction with ZMA201300007 Spring Hill Village to vary the road alignment, block sizes and phasing as shown on the Exhibit entitled "Spring Hill Village Application/Block Plan" dated August 4, 2017 and the revised code of development.

NOW, THEREFORE, BE IT RESOLVED that, upon consideration of the foregoing, the Memorandum prepared in conjunction with the special exception request and the attachments thereto, including staff's supporting analysis, and all of the factors relevant to the special exceptions in Albemarle County Code §§ 18-8.5.5.3, 18-33.5, and 18-33.9, the Albemarle County Board of Supervisors hereby approves the special exception to vary the Application Plan and Code of Development approved in conjunction with ZMA201300007 Spring Hill Village, as described hereinabove.

Recordation

Reference: N/A

Right of Way width (feet) = 0

Street Name and/or Route Number

◆ **Berkmar Drive, State Route Number 1403**

Old Route Number: 0

-
- From: Segment C

To: North to Segment D, a distance of: 0.14 miles.

Recordation

Reference: N/A

Right of Way width (feet) = 0

Street Name and/or Route Number

◆ **Berkmar Drive, State Route Number 1403**

Old Route Number: 0

-
- From: Segment B

To: North to Segment C, a distance of: 0.30 miles.

Recordation

Reference: N/A

Right of Way width (feet) = 0

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 6th day of December 2017, adopted the following resolution:

R E S O L U T I O N

WHEREAS, the street(s) in **Connor's Ridge Subdivision**, as described on the attached Additions Form AM-4.3 dated **December 6, 2017**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Connor's Ridge Subdivision**, as described on the attached Additions Form AM-4.3 dated **December 6, 2017**, to the secondary system of state highways, pursuant to §33.2-705, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

* * * * *

Report of Changes in the Secondary System of State Highways

Project/Subdivision Connor's Ridge Subdivision

Type Change to the Secondary System of State Highways: Addition

The following additions to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

Reason for Change: New subdivision street

Pursuant to Code of Virginia Statute: §33.2-705

Street Name and/or Route Number

◆ Cassidy Mountain Road, State Route Number 858

Old Route Number: 0

-
- From: Route 857 Lost Valley Road

To: CDS/ESM, a distance of: 0.07 miles.

Recordation

Reference: DB

2789, PG 170

Right of Way

width (feet) =

0

Street Name and/or Route Number

◆ **Lost Valley road, State Route Number 857**

Old Route Number: 0

-
- From: Route 664 Markwood Road
To: Route 858 Cassidy Mountain
Road, a distance of: 0.13 miles.
Recordation Reference: DB 2789,
Pg 170
Right of Way width (feet) = 0

**RESOLUTION TO APPROVE THE AGREEMENT BETWEEN THE
COUNTY OF ALBEMARLE AND THE SENIOR CENTER, INCORPORATED**

WHEREAS, the Board of Supervisors finds that it is in the best interest of the County to enter into an Agreement with the Senior Center, Incorporated (the "Senior Center"), regarding the County's financial contribution to the Senior Center to be used for the design and construction of Phase One of a new Senior Center facility within the Belvedere development.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County, Virginia hereby approves the Agreement with the Senior Center and authorizes the Chair to execute the Agreement on behalf of the County once it has been approved as to substance and form by the County Attorney.

AGREEMENT

THIS AGREEMENT is made and entered into on November __, 2017, by and between the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the “County”), and the **SENIOR CENTER, INCORPORATED**, a Virginia corporation (the “Senior Center”), and its successors and assigns.

Recitals

- R-1** The Senior Center is the owner of that parcel identified as Tax Map Parcel Number 06100-00-00-15400 (the “Property”), which is located within the Belvedere Development (“Belvedere”) in Albemarle County; and
- R-2** The Senior Center intends to establish a new center on the Property to provide facilities and services for the County’s and the region’s senior population (the “Center at Belvedere”); and
- R-3** The proposed Center at Belvedere will have the capacity to meet the needs of the County’s and the region’s expanding senior population, as well as dedicated functional space appropriate to the multi-dimensional activities; and
- R-4** The proposed Center at Belvedere’s design includes greater accessibility and the first phase of the Center at Belvedere (“Phase One”) will include an equipped fitness center, 2 group exercise rooms, a lifelong learning suite with flexible-use, scalable classrooms, an auditorium for performing arts rehearsals and programs, a fine arts studio space, an expanded volunteer center, an expanded travel center, a café for social engagement, a game room, and several rooms for massage and other wellness and personal services; and
- R-5** The County has received a onetime funding request in the amount of \$2,000,000 from the Senior Center to support the costs of design and construction of Phase One; and
- R-6** The total estimated project cost for the proposed Center at Belvedere is \$23,000,000 and the Senior Center will seek the majority of the funding required for construction from private contributions; and
- R-7** Construction of Phase One is currently scheduled to begin by December 2018 and to be completed between July 2021 and June 2022.

Terms and Conditions for the County’s Contribution and the Senior Center’s Use of Funds

The parties agree as follows:

- 1. Authority.** The contributions by the County to the Senior Center as provided in this Agreement are made pursuant to Virginia Code § 15.2-953. The County, through its Board of Supervisors (the “Board of Supervisors”) is enabled by Virginia Code § 15.2-953 to appropriate funds to charitable institutions. The Senior Center is a charitable institution that is eligible to receive appropriations of public funds under Virginia Code § 15.2-953.
- 2. Contribution by the County.** The County agrees to appropriate and then contribute to the Senior Center a total of \$2,000,000 as provided in Section 4 of this Agreement. The contribution by the County in any fiscal year is subject to nonappropriation by the Board of Supervisors as provided in Section 9 of this Agreement.
- 3. Purposes for Which Contributed Funds may be Used.** The funds contributed by the County to the Senior Center shall be used solely for designing and constructing Phase One, which shall include the facilities and services described in recitals R-3 and R-4 of this Agreement.

4. Timing of the Contribution of Funds by the County to the Senior Center. The County will make up to a total of 4 contributions to the Senior Center when the following 4 milestones are reached as provided below:

- A. \$500,000 will be contributed to the Senior Center in Fiscal Year 2019 or later, when the Senior Center provides written evidence to the satisfaction of the County Executive that it has obtained actual donations, formal pledges, and bank financing, when combined with the County's total contribution, to fund 75% of Phase One. The funds contributed by the County shall be deposited in an escrow account managed by an escrow agent selected by the County. The funds shall be released by the escrow agent to the Senior Center upon written instruction by the County Executive that the Senior Center has issued a notice to proceed to its contractor to begin work on the construction of Phase One.
- B. \$500,000 will be contributed to the Senior Center in Fiscal Year 2020 or later, when the Senior Center provides written evidence to the satisfaction of the County Executive that it has issued a notice to proceed to its contractor to begin work on the construction of Phase One.
- C. \$500,000 will be contributed to the Senior Center in Fiscal Year 2021 or later, when the Senior Center provides written evidence to the satisfaction of the County Executive that the construction of Phase One is 50% completed, based upon the contractor's payment applications.
- D. \$500,000 will be contributed to the Senior Center in Fiscal Year 2022 or later, when the Senior Center provides written evidence to the satisfaction of the County Executive that it has obtained a certificate of occupancy from the County for Phase One.

The Senior Center shall provide the written evidence to the County Executive at the following address: County Executive, 401 McIntire Road, Charlottesville, Virginia, 22902; provided that the written evidence may be transmitted to the County Executive by email or other electronic means as agreed to by the County Executive and the Senior Center's Executive Director.

Any contribution by the County to the Senior Center will be appropriated and then contributed within 30 days after the County Executive is satisfied that the written evidence provided by the Senior Center demonstrates that the applicable milestone has been reached.

5. Return of Contributed Funds. The funds contributed by the County to the Senior Center shall be returned to the County in their entirety in any of the following circumstances:

- A. The Senior Center does not obtain a building permit from the County to construct Phase One by June 30, 2021.
- B. The Senior Center does not obtain a certificate of occupancy from the County for Phase One by June 30, 2024.
- C. The Senior Center loses its status as a charitable institution under the rules of the United States Internal Revenue Service on or before November 8, 2017.
- D. The Senior Center ceases to own the Property on or before the Senior Center expends all of the County's contribution, subject to the proviso in Section 8(C) of this Agreement.
- E. The Senior Center, or its successors or assigns, ceases to operate the Center at Belvedere and provide the facilities described in recitals R-3 and R-4 of this Agreement, and related appropriate activities, for the County's and the region's senior population, within five (5) years after the date the County issues the certificate of occupancy for Phase One.

6. **Prorated Return of Contributed Funds.** The funds contributed by the County to the Senior Center shall be returned to the County on a prorated basis in the following circumstances.
- A. If the Senior Center, or its successors or assigns, ceases to operate the Center at Belvedere and provide the facilities described in recitals R-3 and R-4 of this Agreement, and related appropriate activities, for the County's and the region's senior population six (6) years after the date the County issues the certificate of occupancy for Phase One, the Senior Center, or its successors or assigns will return \$1,000,000 of the funds contributed to the County.
 - B. If the Senior Center or its successors or assigns, ceases to operate the Center at Belvedere and provide the facilities described in recitals R-3 and R-4 of this Agreement, and related appropriate activities, for the County's and the region's senior population, seven (7) years after the date the County issues the certificate of occupancy for Phase One, the Senior Center, or its successors or assigns will return \$800,000 of the funds contributed to the County.
 - C. If the Senior Center or its successors or assigns, ceases to operate the Center at Belvedere and provide the facilities described in recitals R-3 and R-4 of this Agreement, and related appropriate activities, for the County's and the region's senior population, eight (8) years after the date the County issues the certificate of occupancy for Phase One, the Senior Center, or its successors or assigns will return \$600,000 of the funds contributed to the County.
 - D. If the Senior Center or its successors or assigns, ceases to operate the Center at Belvedere and provide the facilities described in recitals R-3 and R-4 of this Agreement, and related appropriate activities, for the County's and the region's senior population, nine (9) years after the date the County issues the certificate of occupancy for Phase One, the Senior Center, or its successors or assigns will return \$400,000 of the funds contributed to the County.
 - E. If the Senior Center or its successors or assigns, ceases to operate the Center at Belvedere and provide the facilities described in recitals R-3 and R-4 of this Agreement, and related appropriate activities, for the County's and the region's senior population, ten (10) years after the date the County issues the certificate of occupancy for Phase One, the Senior Center, or its successors or assigns will return \$200,000 of the funds contributed to the County.
7. **Security for the County's Contribution in the Event of the Senior Center's Failure to Complete Phase One.** The County, in its sole discretion, may record an instrument against the Property to secure the return of its contributed funds under any of the circumstances described in Section 5 of this Agreement. The Senior Center will sign the documents necessary to allow the County to record its instrument, and will not otherwise prevent, or seek to prevent, the County from recording its instrument. The County instrument will be subordinate to any instrument recorded by one or more financial institutions to secure its funding provided to the Senior Center for Phase One and Phase Two of the Center at Belvedere. The County will sign the documents necessary to subordinate its instrument to the instrument recorded, or to be recorded, by the financial institution, and will not otherwise prevent, or seek to prevent, the financial institution from recording its instrument. The County will promptly and timely release any instrument that it records to secure the return of its contributed funds as provided under this Section when the Senior Center is no longer obligated to return contributed funds as provided under Section 5. The Senior Center shall not be responsible for any costs, including recording costs, incurred by the County for it to record any instrument under this Section.
8. **Obligations of the Senior Center.** The Senior Center shall:
- A. Complete Phase One and obtain a certificate of occupancy from the County for Phase One in an expeditious manner.

- B. Maintain its status as a charitable institution under the rules of the United States Internal Revenue Service at least until it obtains a certificate of occupancy from the County for Phase One.
 - C. Continue to own the Property at least until it obtains a certificate of occupancy from the County for Phase One; provided that the Board of Supervisors may, in its sole discretion, determine that a change in the legal status of the Senior Center as a corporation (e.g., from a corporation to another entity) is not a change in ownership for purposes of this Agreement.
 - D. From the date of this Agreement and until the design and construction is 100% funded, diligently conduct a capital campaign to obtain contributions to pay for the cost of design and construction of Phase One and subsequent phases of the Center at Belvedere.
 - E. Provide access to the Center at Belvedere to all eligible residents of Albemarle County.
 - F. Operate the Center at Belvedere and provide the facilities described in recitals R-3 and R-4 of this Agreement, and related appropriate activities, for the County's and the region's senior population for at least 10 years after the date the County issues the certificate of occupancy for Phase One, provided that this requirement may be satisfied by any successor or assign of the Senior Center.
 - G. Not discriminate against any person in its employment, membership, or services on any basis prohibited by federal or state law.
9. **No Goods or Services Received by the County.** The contributions made by the County pursuant to this Agreement are solely to enable the Senior Center to design and construct Phase One of the Center at Belvedere. The descriptions of the services that will be provided by the Senior Center at the Center at Belvedere in recitals R-3 and R-4 of this Agreement state the public and charitable purposes that may be served by the County's contribution, and are not a description of goods or services being procured by the County by this Agreement.
 10. **Nonappropriation.** The obligation of the County to contribute funds as provided in Sections 2 and 4 of this Agreement is subject to, and dependent upon, appropriations being made from time to time by the Board of Supervisors. Under no circumstances shall this Agreement be construed to establish an irrevocable obligation on the County to contribute the funds.
 11. **Non-severability.** If any provision of this Agreement is determined by a court having jurisdiction to be unenforceable to any extent, the entire Agreement is unenforceable.
 12. **Entire Agreement.** This Agreement states all of the covenants, promises, agreements, conditions and understandings between the County and the Senior Center regarding the County's contribution of funds.
 13. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.
 14. **Amendments.** This Agreement may be amended by a written amendment signed by the authorized representatives of the parties.
 15. **Force Majeure.** In the event the Senior Center's timely performance of Section 5(A) or 5(B) of this Agreement is interrupted or delayed by any occurrence not occasioned by the conduct of either the Senior Center or the County, whether the occurrence is an Act of God such as lightning, earthquakes, floods, or other similar causes; a common enemy; the result of war, riot, strike, lockout, civil commotion, sovereign conduct, explosion, fire, or the act or conduct of any person or persons not a party to or under the direction or control of either the Senior Center or the County, then performance of Section 5(A) or 5(B) of this Agreement shall be excused for a period of time as is reasonably necessary after the occurrence to remedy the effects thereof.

WITNESS, the following authorized signatures:

SENIOR CENTER, INCORPORATED

[Insert name and title]

COUNTY OF ALBEMARLE, VIRGINIA

Chair, Board of Supervisors

Approved as to form:

County Attorney