



# Albemarle County

## Legislation Text

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**File #:** 17-570, **Version:** 1

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**AGENDA DATE:** 11/1/2017

**TITLE:**

Senior Center at Belvedere

**SUBJECT/PROPOSAL/REQUEST:** Approval of contribution and Use Agreement with Senior Center

**ITEM TYPE:** Regular Action Item

**STAFF CONTACT(S):** Walker, Letteri, Kamptner

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

**LEGAL REVIEW:** Yes

**REVIEWED BY:** Douglas C. Walker

**BACKGROUND:** The County received a \$2 million funding request from the Senior Center, Inc. to support the design and construction of the proposed new Senior Center within the Belvedere development off of Rio Road (the "new facility"). The new facility will replace the current facility located at 1180 Pepsi Place, which opened in 1991.

The Senior Center's request for funding from the County is to pay for part of the design and construction costs for the new facility's first phase ("Phase One"). The total estimated project cost for the facility is \$23 million. The Senior Center will seek the majority of the funding required for the project from private contributions. The Senior Center purchased the land on which the new facility will be located in 2015.

The new facility will have three times the indoor space of the current facility and nearly an acre of usable outdoor program and event space. Phase One will have the capacity to meet the needs of the County's and the region's expanding senior population and will include: an equipped fitness center, two 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.

Phase One construction is currently scheduled to start by December 2018 and to be completed between July 2021 and June 2022. The Senior Center does not plan to request funding from Albemarle County for current or future operations.

**STRATEGIC PLAN:** *Infrastructure Investment:* Prioritize, plan, and invest in critical infrastructure that responds to past and future changes and improves the capacity to serve community needs.

**DISCUSSION:** The Senior Center is a 501(c)(3) charitable institution that is eligible to receive contributions of public funds appropriated by localities pursuant to Virginia Code § 15.2-953. The Senior Center's new facility is described in the Board's capital improvement program (CIP) adopted as part of its FY 18 budget as follows:

“Funding for the Senior Center at Belvedere project is anticipated to assist in the generation of the private funding that will be used to build the center.” The CIP has programmed \$500,000 contributions from the County to the Senior Center for four successive fiscal years beginning with FY 18. The Board’s Resolution of Appropriations for FY 18, adopted on May 15, included a \$500,000 appropriation for the Senior Center. The County’s contributions in FY 19, FY 20, and FY 21 would be subject to appropriation by future Boards. The following is a summary of the Agreement (Attachment A); paragraph numbers below coincide with section numbers in the Agreement:

1. **Authority.** Virginia Code § 15.2-953 is the authority for the Board to contribute funds to qualifying charitable institutions such as the Senior Center.

2. **County contribution.** The County’s total contribution will be \$2 million made over four years, subject to nonappropriation in future fiscal years.

3. **Purposes for which contribution may be used.** The County’s contributed funds are to be used for designing and constructing Phase One of the Senior Center at Belvedere.

4. **Timing of the County’s contribution.** The timing of the County’s four \$500,000 contributions will be as follows: (1) when Phase One is 75% funded from all sources, and the contribution will be released from escrow when a notice to proceed is issued to the contractor; (2) a notice to proceed is issued to the contractor; (3) Phase One is 50% completed; and (4) a certificate of occupancy for Phase One is issued by the County.

5. **Circumstances when the County may require reimbursement.** The County may require the Senior Center to reimburse the contributions if: (1) the Senior Center fails to obtain a building permit by June 30, 2021; (2) the Senior Center fails to obtain a certificate of occupancy for Phase One by June 30, 2024; (3) the Senior Center loses its status as a charitable institution under IRS rules before it expends all of the County’s contributions; or (4) the Senior Center ceases to own the Property before it expends all of the County’s contributions.

6. **Security.** In its sole discretion, the County may record an instrument against the Property to provide security for its contribution in the event reimbursement is required because the Senior Center fails to complete Phase One. The County’s instrument would be subordinate to a deed of trust recorded against the Property to secure financing from a lending institution.

7. **Obligations of the Senior Center.** The Senior Center is obligated to complete Phase One, to maintain its status as a charitable institution under IRS rules, to continue to own the Property at least until a certificate of occupancy is issued for Phase One, to diligently raise funds for the project, provide all eligible County residents with access to the new facility, and not discriminate against any person.

8. **No goods or services received by the County.** To distinguish this contribution from an expenditure by the County to procure goods or services, the County’s contribution is to allow the Senior Center to design and construct Phase One in order to enable it to provide public and charitable services.

9. **Nonappropriation.** Because the Board would be making contributions in subsequent fiscal years under the Agreement, each fiscal year’s contribution (beyond FY 18) is subject to nonappropriation by a future Board.

10-14. **(Multiple standard sections).** These sections are a non-severability provision, a statement that this Agreement is the entire agreement, a statement that Virginia law is the controlling law, a statement that any amendment to the Agreement must be in writing, and a “force majeure” clause, which extends the deadline for the Senior Center to obtain a building permit or a certificate of occupancy if some Act of God or other catastrophic event makes it impossible to meet either deadline.

Staff's opinion is that the Agreement fairly reflects the County's commitment to the project and the expected benefits to eligible County residents, while at the same time ensuring that the County's contribution will be used for its intended purpose.

**BUDGET IMPACT:** Funding for the Agreement is included in the FY 18 Adopted CIP and would be appropriated at the agreed upon intervals.

**RECOMMENDATION:**

Staff recommends that the Board adopt the attached Resolution (Attachment B) to approve the Agreement.

**ATTACHMENTS:**

A - Agreement

B - Resolution