

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date:	June 7, 2021
Action Required:	Approval of Resolution (1 reading)
Presenter:	Heather Hill, City Councilor
Staff Contacts:	Charles P. Boyles, II
Title:	Donation of City Funds for Walker Playground Equipment

Background:

For some time, Ms. Christa Bennet, Director of a not-for-profit known as “A Playground for Walker” has been raising money for the purchase and installation of a playground for Walker Upper Elementary School. The land on which the equipment will be installed is owned by the City of Charlottesville, not the School Board: 1564 Dairy Road, Charlottesville, Va.

In March 2021 following a lengthy planning process, the City Manager gave permission for “A Playground for Walker” to proceed, *see* March 5, 2021 correspondence, attached. At this time, however, it has become apparent that the project cannot be completed within the funding that has been raised, and “A Playground for Walker” needs an additional \$56,000 to complete the project.

Discussion:

Ms. Bennett has notified one or more City Councilors that The Building Goodness Foundation will provide \$15,000 for the project, if the City of Charlottesville will match that with \$15,000 with City funds. Ms. Bennett is confident that they can raise the additional \$20,000+ funding necessary from additional private donations.

Normally, for work that will be performed on City property, the City would directly pay a contractor to perform the work, after selecting a contractor through a procurement process. In this situation, however, the City Manager cannot simply agree to pay the contractor directly because the contractor(s) were not procured by a competitive quote or bid process such as that required by Chapter 22 of the City Code. Therefore, if City Council desires to contribute funding to the project, it will need to do so by making a donation to “A Playground for Walker”.

Alignment with Council Vision Areas and Strategic Plan: Yes.

Community Engagement: N/A

Budgetary Impact: No new funding is being requested. Funding is available for this donation within an existing account that has already been appropriated by City Council for spending.

Legal Review: The Constitution of Virginia provides that the General Assembly may authorize cities to give funds to charitable institutions or associations. Virginia Code §15.2-953 is the state enabling legislation that implements this Constitutional authorization. That statute lists the various organizations to which donations may be made. In order for a donation to be permitted by state law, it must fall within the authorization of Va. Code §15.2-953. Va. Code §15.2-953 authorizes the City to make donations to any “charitable institution or association” located within City limits.¹ “A Playground for Walker” is not itself a 501(c)(3) tax exempt corporation, but Ms. Bennett has indicated that A Playground for Walker uses a fiscal agent (“Wildrock”, see <https://www.wildrock.org/>) and that the fiscal agent has been granted §501(c)(3) tax exempt status by the IRS. But there is no statutory requirement that an recipient have IRS 501(c)(3) status (although such status can serve as verification that that a particular organization is a charitable institution).

There is no statutory definition of “charitable institution or association”. In one Virginia case, the Supreme Court referenced a definition associated with tax law: i.e., an institution which is “organized and conducted to perform some service of public good or welfare....” *City of Richmond v. United Givers Fund*, 205 Va. 432, 436 (1964) (citing 84 C.J.S. Taxation §282 (1954)). By this broad definition, A Playground for Walker could itself be considered a charitable institution or organization.

Recommendation: Staff does not oppose this proposal.

Attachments:

- Proposed Resolution
- March 5, 2021 Correspondence

¹ Donations may also be made to out-of-state charitable institutions, if the institutions provide services to people within the City of Charlottesville.

RESOLUTION

Allocating City Funding for a donation of \$15,000 to the nonprofit, charitable institution or association called “A Playground for Walker”

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLOTTESVILLE,

VIRGINIA, pursuant to authority set forth within Va. Code §15.2-953, that a charitable

donation in the amount of fifteen thousand dollars (\$15,000.00) is hereby approved to be made

to the non-profit entity called “A Playground for Walker” organized under the laws of the

Commonwealth of Virginia (Virginia State Corporation Identification No. 08507386), said

donation of funds to be used exclusively for and in support of the installation of playground

equipment on City-owned land located at 1564 Dairy Road, Charlottesville, Virginia.

BE IT FURTHER RESOLVED that the aforesaid amount shall be paid to A

Playground for Walker from currently-appropriated funds within the City’s budget, as follows:

Donation:

\$15,000.00 Fund: 426 Internal Order: SC-003 GL Code: 540100



March 5, 2021

Via Email To:

A Playground for Walker
Attention: Christa Bennett
106 Troost Court
Charlottesville, VA 22903

Re: Walker Upper Elementary School Playground Equipment (“Project”)

Dear Ms. Bennett,

This letter agreement sets forth the terms on which A Playground for Walker has agreed to purchase and install playground equipment for installation on property owned by the City of Charlottesville at 1564 Dairy Road, Charlottesville, Virginia.

1. A Playground for Walker is responsible for all costs and expenses associated with the purchase and delivery of playground equipment to 1564 Dairy Road;
2. A Playground for Walker is responsible for all costs and expenses necessary for preparation of plans for installation of the playground equipment, for approval of the plans, and for any permits required for the installation;
3. A Playground for Walker is responsible for installation of the playground equipment at 1564 Dairy Road using a licensed Virginia contractor. Installation will be in accordance with plans approved by the City. All costs and expenses associated with installation of the playground equipment in accordance with the approved plans shall be the responsibility of A Playground for Walker.
4. A Playground for Walker will coordinate the project with the Director of the City’s Department Parks & Recreation (Todd Brown, Director - (434) 970-3021 and brownt@charlottesville.gov) and the Charlottesville School System (Dr. Adam Hastings Principal, Office (434)245-2412/Cell (434)981-6307 and hastinal@charlottesvilleschools.org). A Playground for Walker will notify each of these contact persons 7 calendar days prior to its contractor bringing any equipment or materials onto the site;
5. During installation, A Playground for Walker’s contractor shall be responsible for maintaining a safe construction area and restoration of any areas damaged during installation;
6. Upon completion of installation the City of Charlottesville shall be the owner of the playground equipment. A Playground for Walker will provide or transfer documentation as necessary to verify that the City owns all right, title and interest in the installed playground equipment, and A Playground for Walker will arrange for the transfer of manufacturer’s warranties to the City;

7. Following the completed installation of the playground equipment, A Playground for Walker shall not have responsibility for repair or maintenance of the playground equipment;
8. A Playground for Walker understands and acknowledges that the City of Charlottesville may, in the future, decide that there are other uses of the 1564 Dairy Road property that would be in the public interest, or the City could make any disposition of the property as it deems to be in the public interest. In that event the City may elect to relocate the playground equipment to another site.

Please confirm by your signature below that this correspondence accurately reflects the terms and conditions of the Project funded by A Playground for Walker.

The City wishes to express its gratitude to A Playground for Walker for this generous donation!

Sincerely,



David T. Brown, PE
Director, Department of Public Works
City of Charlottesville


Cc: Todd Brown, Director, City Parks & Recreation

Offer and Terms are hereby Confirmed:
By A Playground for Walker

Signature:  _____
Christa Bennett
Director

Date: March 8, 2021

Confirmed Offer and Terms are hereby Accepted:
By The City of Charlottesville

Signature:  _____
Charles P. Boyles, II, City Manager

Date: 03/09/2021