

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



Agenda Date:	July 19, 2021
Action Required:	Adoption of Resolution (one reading)
Presenter:	Lloyd Snook, City Councilor
Staff Contact:	Lisa Robertson, City Attorney's Office
Title:	College Scholarship Fund (Charlottesville-Albemarle Community Foundation)

Background:

Over twenty years ago the Charlottesville City Council began contributing public funding to a College Scholarship Fund. Attached is a copy of the December 2000 Resolution by which the Scholarship Fund was originally approved, including a list of six eligibility criteria. The 2000 Resolution included an appropriation of “seed” money, in the amount of \$250,000; however, the Resolution specified that scholarship awards would not commence until the total scholarship endowment reached \$500,000. Subsequently, in March 2001 City Council entered into a written Agreement to establish the terms and conditions upon which a local nonprofit organization agreed to establish and administer the Fund. The terms of the March 2001 Agreement are generally consistent with the December 2000 Resolution, but the two are not identical. A copy of the March 2001 Agreement is also attached.

Virginia Code §15.2-953 provides the enabling authority for City Council’s appropriation of funding for the Scholarship Fund, reference ¶1 of the March 2001 Agreement. According to §15.2-953(A), “Any locality may make appropriations of public funds...to any charitable institution...located within their respective limits or outside their limits if such institution ...provides services to the residents of the locality”. The “Charlottesville Public School Scholarship Fund” is administered by the Charlottesville-Albemarle Community Foundation, a charitable organization which has been granted 501(c)(3) tax-exempt status by the Internal Revenue Service.

Discussion:

The Agreement is between the City and CACF; however, pursuant to Paragraph 3 of the Agreement, distributions from the Scholarship Fund are controlled by a Board of Directors established by the City (including one member designated by CACF). The following activities are identified as being within the Board of Directors’ purview: advertising availability of scholarships; accepting and reviewing applications; selecting beneficiaries and awarding specific amounts to be awarded; sending written requests to CACF to distribute funds. (The CACF then distributes scholarship funds directly to the educational institution the beneficiary will be attending).

According to the current Board of Directors, the Board has been accepting applications from employees of the City and City schools, which may have modified the original eligibility criteria established by the 2000 Resolution and 2001 Agreement.

To assure that eligibility and program administration will be properly conducted in accordance with applicable City Council approvals, it is proposed that the 2001 Agreement should be amended to delegate full authority to the Board of Directors to establish and modify eligibility criteria. A chart showing the proposed amendment, in comparison with the December 2000 Resolution and March 2001 Agreement, follows below.

Proposed Amendment	
<i>2. Use of the Fund. The Fund will be used to provide financial aid to low and moderate-income individuals from or in the Charlottesville community, who are in need of assistance to pay for expenses incurred for or in connection with post-secondary education. The criteria for selection of scholarship recipients from the Fund shall be set by the Board of Directors of the Fund that has been established as described in paragraph 3 of the Agreement. The Board of Directors shall have the power to change the selection criteria, from time to time, as necessary to accomplish the stated purpose of the Fund described above. The Chair of the Board of Directors has executed this amendment, following below, to acknowledge the authority granted by this Amendment.</i>	
2000 Resolution	2001 Agreement
Student must be a City resident	Same
Student must be a graduating senior or graduate from the Charlottesville Public Schools	Same
Student must be accepted at an accredited two or four year college or technical school in the United States	Same
Student must complete a financial aid package that shows financial need and receive an award letter detailing the amount of financial aid that the applicant is eligible to receive, and the Board of the Public Schools Scholarship may request additional financial information from applicants	Same. Agreement further specifies that the Fund will be used to provide financial aid to “low- and moderate-income” students. (This phrase has come to be a term of art; when used today, it typically is used to refer to 80% AMI households).
Student must be a citizen of the United States, or hold a permanent resident visa	Same
For grants to continue from year to year, students must participate in an appropriate mentoring program adopted by the Charlottesville – Albemarle Community Foundation	Same, but specifies that the mentoring program will be adopted by the Scholarship Program Board of Directors
N/A	Specifies that members of the immediate family of a City Councilor, or a member of the Board of Directors of the Fund, shall NOT be eligible to receive scholarships.

Budgetary Impact: none

Alternatives:

Council may vote to retain authority and control over selection criteria for the Fund, including any changes in criteria that may be desired. In that event, an alternative resolution (similar to the December 2000 Resolution) and contract amendment could be prepared.

Recommendation:

Approval of the attached, proposed resolution

Community Engagement:

No

Alignment with Council Vision Areas and Strategic Plan:

Yes

Attachments:

- Proposed Resolution
- December 2000 Resolution
- March 2001 Agreement

RESOLUTION
AMENDING AND REAUTHORIZING THE CHARLOTTESVILLE PUBLIC SCHOOL SCHOLARSHIP FUND

WHEREAS, consistent with a Resolution adopted by the Charlottesville City Council on December 4, 2000, this City Council and the Charlottesville Albemarle Community Foundation entered into that certain Agreement for the Establishment of a College Scholarship Fund dated March 9, 2001 (“Agreement”), to create the Charlottesville Public School Scholarship Program (“Program”), which provides financial aid for post-secondary education to certain residents of the City of Charlottesville, Virginia; and

WHEREAS, in the years since 2001, the Program has been administered by a Board of Directors established by the City in accordance with Paragraph 3 of the Agreement; and

WHEREAS, in the years since 2001, with the assent of Board of Directors members appointed by the City of Charlottesville (“Donor”) and the Charlottesville-Albemarle Community Foundation (“Foundation”), the Board of Directors has extended Program eligibility to employees of the City and City Schools; and

WHEREAS, the Donor and the Foundation have determined that a broader and more explicit delegation of authority to the Scholarship Fund’s Board of Directors will further the purposes for which the Program was created, and City Council desires to affirm and reauthorize the Program subject to certain modifications of the terms of the Agreement between the City and the Foundation;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHARLOTTESVILLE, VIRGINIA, that the eligibility criteria established within the December 4, 2000 City Council Resolution are hereby repealed, and

BE IT FURTHER RESOLVED THAT the Charlottesville City Council hereby approves the following amendment to the March 9, 2001 Agreement with the Charlottesville Albemarle Community Foundation (“Amendment”):

**Amendment to Agreement for the Establishment
Of A College Scholarship Fund**

The Donor and the Foundation hereby agree to amend the March 9, 2001 Agreement between the City and the Charlottesville Albemarle Community Foundation, as follows:

(a) Modify Paragraph 1 of the Agreement, as follows:

1. Establishment of the Fund. Pursuant to the authority granted by Virginia Code §15.2-953, Donor hereby establishes with the Foundation a fund to be called the CHARLOTTESVILLE CITY PUBLIC SCHOOLS SCHOLARSHIP FUND (“Fund”) by initially donating to the Foundation the amount of Two Hundred and Fifty Thousand and 00/100 Dollars (\$250,000.00).

(b) Strike Paragraph 2 of the Agreement, in its entirety, and replace it with the following:

2. Use of the Fund. The Fund will be used to provide financial aid to low and moderate-income individuals from or in the Charlottesville community, who are in need of assistance to pay for expenses incurred for or in connection with post-

secondary education. The criteria for selection of scholarship recipients from the Fund shall be set by the Board of Directors of the Fund that has been established as described in paragraph 3 of the Agreement. The Board of Directors shall have the power to change the selection criteria, from time to time, as necessary to accomplish the stated purpose of the Fund described above. The Chair of the Board of Directors has executed this amendment, following below, to acknowledge the authority granted by this Amendment.

(c) Modify Paragraph 3 of the Agreement, as follows:

*Donor agrees to establish a City Scholarship Fund Board of Directors that will be responsible for the administration of the scholarship program. The Foundation agrees to appoint one person from its governing board, advisory board or staff to serve on the Board of Directors. **In addition to the authority set forth within Paragraph 2, preceding above, the Donor, through staff and the Board of Directors, will be responsible for advertising the availability of the scholarships, accepting and reviewing applications, selecting the beneficiaries of the scholarships and determining the amount of assistance, and making written requests to the Foundation to distribute funds in specified amounts on behalf of the selected beneficiaries; and adopting a mentoring program for students whose scholarships continue from year to year.** Distributions shall be made directly to the educational institution the beneficiary will be attending. The Foundation agrees to distribute the funds as requested, unless it determines that the distribution would be inconsistent with its articles of incorporation, bylaws or status as a public charity. Except as specifically set forth herein, the Foundation shall have no responsibility for the operation or administration of the scholarship program. Distributions from the Fund shall not be requested or made until the Fund contains a minimum of Five Hundred Thousand and 00 /100 Dollars (\$ 500,000. 00).*

BE IT FURTHER RESOLVED THAT, following execution of the above-referenced Amendment by the City Manager, the Executive Director of the Charlottesville Albemarle Community Foundation, and the Chair of the Board of Directors of the Scholarship Fund, the parties' March 9, 2001 Agreement is hereby ratified and shall be and continue in full force and effect, as amended in accordance with this Resolution.

RESOLUTION
City College Scholarship Fund

BE IT RESOLVED by the Council of the City of Charlottesville, Virginia that:

(1) The sum of \$250,000.00 is hereby transferred from the Capital Fund to the Charlottesville-Albemarle Community Foundation for the purpose of establishing a college scholarship fund for low and moderate income students;

(2) The eligibility criteria for recipients of the Public Schools Scholarship funds, as set forth below, are hereby approved:

- a. Student must be a City resident.
- b. Student must be a graduating senior or graduate from the Charlottesville Public Schools.
- c. Student must be accepted at an accredited two or four year college or technical school in the United States.
- d. Student must complete a financial aid package that shows financial need and receive an award letter detailing the amount of financial aid that the applicant is eligible to receive, and the Board of the Public Schools Scholarship may request additional financial information from applicants.
- e. Student must be a citizen of the United States, or hold a permanent resident visa.
- f. For grants to continue from year to year, students must participate in an appropriate mentoring program adopted by the Charlottesville-Albemarle Community Foundation.

(3) The Proposal dated 10/27/00 and entitled "The Charlottesville Public Schools Scholarship Proposal", attached hereto, is hereby accepted and approved by this Council.

(4) Scholarship fund awards under this program shall not commence until the total scholarship endowment reaches at least \$500,000.

Approved by Council
December 4, 2000


Clerk of City Council

**AGREEMENT FOR THE ESTABLISHMENT
OF A COLLEGE SCHOLARSHIP FUND**

This Agreement is entered into this 9th day of March, 2001 by and between the CITY OF CHARLOTTESVILLE, VIRGINIA, a municipal corporation (hereinafter "Donor") and the CHARLOTTESVILLE-ALBEMARLE COMMUNITY FOUNDATION (hereinafter "Foundation").

Donor wishes to establish a charitable fund for the purposes and uses set forth in this Agreement. The Foundation is a community trust which is a public charity as defined in § 501(c)(3) and § 509(a)(1) of the Internal Revenue Code. The Foundation is willing to accept contributions to establish a fund which will serve the purposes set forth below.

Therefore, Donor and the Foundation agree as follows:

1. **Establishment of the Fund.** Pursuant to the Authority granted by Virginia Code § 15.2-953, Donor hereby establishes with the Foundation a fund to be called the CHARLOTTESVILLE PUBLIC SCHOOLS SCHOLARSHIP FUND ("Fund") by initially donating to the Foundation the amount of Two Hundred and Fifty Thousand and 00/100 Dollars (\$250,000.00).

2. **Use of the Fund.** The Fund will be used to provide financial aid to low and moderate income students within the Charlottesville community who have attended Charlottesville public schools, and who are in need of assistance to pay for expenses at an accredited two or four year college or a technical school. Candidates for scholarship grants must (a) be a City resident; (b) be a graduating senior or graduate from the Charlottesville public schools; (c) be accepted at an accredited two or four year college or technical school in the United States; (d) complete a financial aid package that shows financial need, and receive an award letter from an educational institution detailing the amount of financial aid that the applicant is eligible to receive from that school; (e) be a citizen of the United States, or hold a permanent resident visa; and (f) for grants to continue from year to year, students must participate in an appropriate mentoring program adopted by the Scholarship Fund Board of Directors. Members of the immediate family of any member of the Charlottesville City Council or the Scholarship Board of Directors shall not be eligible to receive a scholarship. For purposes of this section, "immediate family" is defined as in § 2.1-639.2 of the State and Local Government Conflict of Interests Act.

3. **Distributions from the Fund.** Donor agrees to establish a City Scholarship Fund Board of Directors that will be responsible for the administration of the scholarship program. The Foundation agrees to appoint one person from its governing board, advisory board or staff to serve on the Board of Directors. The Donor, through staff and the Board of Directors, will be responsible for advertising the availability of the scholarships, accepting

and reviewing applications, selecting the beneficiaries of the scholarships and determining the amount of assistance, and making written requests to the Foundation to distribute funds in specified amounts on behalf of the selected beneficiaries. Distributions shall be made directly to the educational institution the beneficiary will be attending. The Foundation agrees to distribute the funds as requested, unless it determines that the distribution would be inconsistent with its articles of incorporation, bylaws or status as a public charity. Except as specifically set forth herein, the Foundation shall have no responsibility for the operation or administration of the scholarship program.

Distributions from the Fund shall not be requested or made until the Fund contains a minimum of Five Hundred Thousand and 00/100 Dollars (\$500,000.00).

4. Subsequent Contributions. The Donor, through the Scholarship Fund Board of Directors, will actively seek additional contributions for the Fund from both the private sector and other jurisdictions, with a goal of matching the initial contribution of \$250,000. The Foundation will help publicize the Scholarship Fund through its publications and at public forums. Acceptance of the additional contributions shall be at the discretion of the Foundation. When necessary the Foundation shall be responsible for obtaining a "Donor Advised Fund Agreement" with any new jurisdictions providing contributions to this Fund.

5. Ownership of Assets of the Fund. All of the property contributed to and property received by the Fund will be owned by the Foundation and will be subject to the restrictions and purposes of the Foundation as set forth in the Foundation's articles of incorporation, bylaws and appropriate resolutions, and the Foundation will have total authority with respect to the investment, sale, reinvestment and distribution of the income and assets of the Fund.

6. Variance of Use. One of the powers of the Foundation under its articles of incorporation and bylaws is the right to vary the use of the Fund from any special area of emphasis set forth in paragraph 2 above. The Foundation agrees that it will not vary the use of the Fund unless the charitable purposes set out in this Agreement cannot practically be fulfilled.

7. Expenses of Administration. Direct expenses of administration of the Fund including expenses involved with obtaining investment advice and services related to holding the assets of the Fund will be charged against the Fund. The Foundation may also collect as a charge against the Fund a portion of the administrative cost of the Foundation. The amount of this charge will not exceed 1% of the market value of the specific account based

on a two-year moving average as of December 31, and will be charged against the account in the first quarter of each calendar year. This fee schedule is subject to review every three years.

8. **Program Termination.** If for any reason the Donor decides to terminate its educational scholarship program, it shall promptly give written notification to the Foundation. Thereafter, the Foundation shall consider distributing the remaining portion of the Fund which is attributable to contributions by the Donor to the City of Charlottesville School Board for public educational purposes, or to such other charitable organizations as mutually agreed upon by the Donor and the Foundation.

9. **Recordkeeping.** The Foundation agrees to maintain complete and accurate records which reflect the investments of the Fund, the income produced by the Fund and the distributions from the Fund. Such records shall be made available for inspection by the Donor upon reasonable advance notice.

10. **Miscellaneous.** This Agreement contains the entire understanding of the parties with respect to the subject matter of the Agreement. This Agreement will be binding upon and inure to the benefit of the successors of the respective parties. This Agreement will be governed by the laws of the Commonwealth of Virginia and by applicable Federal laws concerning charitable uses. The Fund is intended to be a component part of the Foundation and is not a separate trust. This Agreement will be interpreted and the terms of this Agreement applied in such a manner so as not to affect the status of the Foundation under § 501(c)(3) and § 509(a) of the Internal Revenue Code of 1986, as such sections may be amended or superseded. Any notices required to be sent to the Donor or to the Foundation may be given personally or mailed first class postage prepaid to the address provided for that purpose by the party to whom notice is directed.

WITNESS the following signatures as of the date first written above:

Donor: CITY OF CHARLOTTESVILLE, VIRGINIA

By: 

Title: Linda Peacock
Assistant City Manager

CHARLOTTESVILLE-ALBEMARLE
COMMUNITY FOUNDATION

By: *John R. Redick*
Title: *Executive Director*

Funds are available:
Rena K. Smith
Director of Finance

Approved as to form:
S. Craig Brown
Deputy City Attorney