

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (hereinafter, "MOU") is entered into by and between the School Board of the City of Alexandria, Virginia (hereinafter, "the School Board") and The Scholarship Fund of Alexandria (hereinafter, the "SFA"), and shall become effective as of the date of execution by both parties (hereinafter, "Effective Date").

WHEREAS, the School Board is a body corporate vested with authority under the Virginia Constitution to supervise and operate the public schools of the City of Alexandria ("Alexandria City Public Schools" or "ACPS"), and

WHEREAS, pursuant to § 22.1-212.2:2 of the Code of Virginia, the School Board is also vested with authority to establish public school foundations through a contract with a nonstock, nonprofit corporation established for the express purpose of implementing a public/private partnership to implement public school improvement projects approved by the School Board that are designed to achieve an educational purpose that may be identified in Title 22.1 of the Code of Virginia, and

WHEREAS, the SFA, established in 1986, is a Virginia nonstock, nonprofit charitable organization existing to promote partnerships between public and private members of the community to fund and promote initiatives that enhance educational excellence for the benefit of the school children in the City of Alexandria, and

WHEREAS, the School Board wishes to maintain its long-established, mutually beneficial relationship with the SFA to continue to enhance educational excellence and implement innovative educational initiatives in the Alexandria City Public Schools, and

WHEREAS, the SFA wishes to continue its support of the School Board's initiatives to help its students pursue higher education by providing ACPS students with financial aid and college access advisory services, need- and merit-based scholarships, and renewal awards; and

WHEREAS, the SFA is a 501(c)(3) organization, qualified and willing to continue to provide such services in order to further facilitate the education of ACPS students and foster the collective good of the community; and

WHEREAS, the School Board and the SFA wish to contract with each other for the purposes set forth in Section 22.1-212.2:2 of the Code of Virginia.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good consideration, the receipt and sufficiency of which are hereby acknowledged, the School Board and the SFA hereby agree as follows:

1. The donations and contributions solicited and received by the SFA shall continue to provide its principal means of support, and all such donations and contributions and assets shall continue to be used solely to fund or provide financial aid and college access advisory services, need- and merit-based scholarships, renewal awards, and the administrative and related fund-raising costs the SFA incurs each year.

2. The SFA shall not be required to have its officers post a bond with surety, as the School Board does not loan funds to SFA.

3. The SFA and the School Board shall not be required to establish terms for the allocation of any profits or revenues, so long as the SFA maintains its non-profit status and no profits are generated in the course of the partnership between the SFA and the School Board.

4. The SFA shall continue its support of the School Board's initiatives to increase the number of ACPS graduates who are able to pursue post-secondary educational opportunities through the efforts of the SFA's Executive Director and staff in assisting ACPS students and their families with financial aid advice and college access services, in furtherance of the ongoing work of T. C. Williams High School ("TCW"), specifically, the efforts of the counseling department.

5. In the discretion of its Board of Trustees, the SFA shall continue to have the ability to establish scholarships and to award scholarship funds, to be used solely for the purposes stated in this MOU and for the benefit of students and graduates of ACPS.

6. The SFA shall continue to maintain an appropriate system of accounting for all scholarships, renewal awards, financial aid advisory services, any administrative costs incurred by SFA, and all other SFA initiatives. Such accounting systems shall include a yearly audit to be conducted by a qualified, outside auditor selected by the SFA, and any other oversight measures established by the SFA. The Fund's financial statements, including the IRS990 and the audit, shall be provided to the School Board within 90 days of their respective completion. It is understood and agreed, however, that information concerning the SFA's donors (such as the SFA's donor lists and databases), information concerning students and their families (such as financial data, academic records, personal statements, contact information, citizenship status, and similar confidential information), SFA employment records, social security numbers and other personally identifiable information about specific individuals which the SFA is required by law or contract to keep confidential, as well as any other data or information that the SFA is required to treat as confidential under its Bylaws and/or Code of Conduct is non-public and confidential, and that this Agreement shall not require or authorize its disclosure to, or use by, any persons or entities other than the SFA.

7. As required by Virginia Code Section 22.1-212.2:2 (C)(3), so long as this MOU remains in force, upon dissolution of the SFA, any assets remaining after payment of just debts shall be transferred to and become the property of the School Board for use in furtherance of not-for-profit endeavors designed to achieve an educational purpose that may be identified in Title 22.1 of the Code of Virginia. The School Board may also, by express action, approve the disbursement of such assets to any 501(c)(3) organization(s) selected by the School Board. Provided however, that the foregoing shall not apply in the event of any inadvertent, unintentional dissolution of the SFA, such as through an inadvertent, unintentional failure to file necessary forms with, or to pay required fees to, the Virginia State Corporation Commission, so long as upon discovery of any such inadvertent dissolution, the SFA promptly becomes reinstated as a non-stock, not-for-profit Virginia corporation. Additionally, if any of the Fund's assets are transferred to the School Board upon the Fund's dissolution, to the extent that any endowments or other funds are held by the Fund pursuant to a trust or other instrument requiring

such funds to be distributed or disbursed in a specific way or manner, the School Board agrees to continue to honor such distribution or disbursement requirements.

8. The School Board shall continue its support of the SFA's endeavors by providing an ACPS staff member acceptable to the SFA's Board of Trustees in the reasonable exercise of its discretion to serve as the SFA's Executive Director. The SFA Board of Trustees shall be invited to participate in the recruitment, interview and selection process for successive Executive Directors.

9. The School Board shall continue to sanction the SFA, but the School Board shall not have any authority to direct or manage the SFA. ACPS' Superintendent of Schools, however, may continue to be a member, *ex officio*, of the SFA Board of Trustees.

10. The School Board shall cooperate with the SFA to provide recognition to the SFA and its public and private donors and sponsors.

11. The School Board shall continue to provide appropriate office space and furnishings at TCW for the Scholarship Fund Executive Director and staff in a location that will be accessible for students and their families to access the financial aid advising and other college-access services provided by SFA. SFA agrees to staff that office during regular school hours, as well as reasonable other times, in a substantially similar manner as exists as of the Effective Date. SFA may also request the use of meeting rooms and other spaces to conduct workshops and other events related to the activities of the Fund. Any SFA employees with offices in ACPS facilities or regularly using them will be cleared through the ACPS Human Resources Department, including obtaining certifications of the kind prescribed by Va. Code 22.1-296.1, and the fingerprint and records check prescribed by Va. Code 22.1-296.2. ACPS will provide basic office supplies to support the college and financial aid advising services in substantially the same manner as exists as of the Effective Date.

12. The School Board and the SFA agree that the SFA's Board of Trustees, acting through its Chairman, oversees and directs SFA staff in order to facilitate the mission and initiatives of the SFA as determined by the Board of Trustees. The Executive Director shall coordinate with the Principal and staff of the high school to foster collaboration on programs and activities related to college access and financial aid advising.

13. The School Board and the SFA agree that, with the exception of the Executive Director, the SFA shall have sole authority to hire, fire, and direct contractors and employees who design, implement, and maintain any SFA project or initiative. SFA staff will comply with the applicable stated policies and regulations of ACPS. ACPS, with input from SFA, will prepare periodic performance evaluations of the SFA Executive Director. The SFA Board of Trustees will also prepare an annual performance evaluation of the SFA Executive Director, which evaluation will be submitted to the ACPS Executive Director of Human Resources and considered in connection with ACPS' periodic performance evaluations of the Executive Director. The School Board is the entity ultimately responsible for decisions regarding the suspension, continuation or termination of the employment of the Executive Director. The School Board and ACPS will consult with the SFA Board of Trustees concerning decisions regarding the suspension, continuation or termination of the employment of the Executive Director, and give reasonable consideration of the SFA Board's recommendations as to any such

matters, but this shall not be construed to require the consent of the SFA Board of Trustees as to any such decisions by the School Board or ACPS.

14. Either party may terminate this agreement upon ninety (90) days written notice to the other party or at any time should there be a material breach of any provision of this MOU.

15. The SFA shall not assign this agreement in whole or in part without the School Board's prior written approval. Nor is it the intent of either party to this MOU to create any benefit for any third party.

16. This MOU contains the entire agreement between the parties relating to its subject matter, and no prior or contemporaneous oral or written communication can alter, add to, contradict, or expand any of the provisions of this Agreement. This MOU may be waived or amended only in writing signed by both parties. The parties agree that this MOU is governed by Virginia law.

17. Notwithstanding any use of the word "partnership" in this endeavor, the School Board and SFA do not intend to create a partnership, joint venture, or other entity involving joint action for profit, nor is either the School Board or the SFA an agent for the other. Rather, the SFA is an independent contractor which neither performs functions of the School Board itself, nor advises the School Board, as part of its responsibilities pursuant to this MOU.

18. The establishment of this public school foundation shall in no way preclude the School Board from establishing one or more other public school foundations for any purposes permitted by § 22.1-212.2:2 of the Code of Virginia.

Yvonne Folkerts, Chairman
Alexandria City School Board

Date: _____

Attest: _____
Rosemary A. Webb, Clerk

Date: _____

Deborah O. Wells
Deborah O. Wells, Chairman
Board of Trustees
The Scholarship Fund of Alexandria

Date: 9-18-09