

# CITY OF WILLIAMSPORT, PA RESOLUTION

RESOLUTION # 9166

DATE 6-24-21

## TITLE

**AMENDED AGREEMENT TO PROVIDE GRANTS FROM THE  
ESTELLA J. AND DR. KENNETH L. COOPER  
MEMORIAL GARDEN FUND OF THE FIRST  
COMMUNITY FOUNDATION PARTNERSHIP  
OF PENNSYLVANIA BENEFITING THE CITY OF  
WILLIAMSPORT BY PROVIDING FINANCIAL SUPPORT  
FOR THE MAINTENANCE OF BRANDON PARK'S  
KENNETH COOPER GARDEN**

This Amended Agreement ("Agreement"), dated this 24<sup>th</sup> day of June, 2021, by and between the City of Williamsport ("City"), with its address of 245 West Fourth Street, Williamsport, Lycoming County, Pennsylvania and the First Community Foundation Partnership of Pennsylvania ("Foundation"), with its address of 201 West Fourth Street, Williamsport, Lycoming County, Pennsylvania.

1. Elizabeth Candelario intends under her Last Will and Testament to make a bequest to the Foundation pursuant to the terms and conditions of the Estella J. and Dr. Kenneth L. Cooper Memorial Garden Fund ("Fund") she is establishing with the Foundation, a copy of which is attached hereto as Exhibit "A".
2. The purpose of the Fund is to provide grants to the City for the permanent maintenance of Brandon Park's Kenneth Cooper Garden, provided there are sufficient funds to maintain the Garden.
3. The grants from the Fund shall be awarded by the Foundation in accordance with the Fund document and the Foundation's policies and administered by the City, through its Brandon Park Commission, its successors or assigns, in accordance with the Fund document, the Foundation's policies and the Brandon Park Commission Ordinance.
4. Any expenditures from the grant shall be subject to the requirements of the Brandon Park Commission Ordinance and state law.
5. The City shall provide to the Foundation an annual report of grant expenditures.

Approved

James M. Frank  
City Clerk

[Signature]  
President

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IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound, have hereunto set their hands and seals the day and year first above written.

ATTEST:

CITY:

CITY OF WILLIAMSPORT

By: Janice M. Frank  
Janice Frank, City Clerk

By: Derek Slaughter  
Derek Slaughter, Mayor

By: Margaret J. Woodring  
Margaret J. Woodring, City Controller

WITNESS:

FIRST COMMUNITY FOUNDATION  
PARTNERSHIP OF PENNSYLVANIA

By: \_\_\_\_\_

By: \_\_\_\_\_

Approved

Janice M. Frank  
City Clerk

Randy Allison  
President

**First Community Foundation Partnership of Pennsylvania  
Estella J. and Dr. Kenneth L. Cooper Memorial Garden Fund**

**DESIGNATED FUND AGREEMENT**

This Designated Fund Agreement ("Agreement") dated April \_\_\_\_, 2021 is by and between Elizabeth Candelario, individually, ("the Donor"), London, United Kingdom, and the First Community Foundation Partnership of Pennsylvania ("the Foundation"), 201 West Fourth Street, Williamsport, Pennsylvania 17701.

**Terms and Conditions**

**Under the Last Will and Testament of Elizabeth Candelario (donor), it is her current plan to make a gift to the First Community Foundation Partnership of Pennsylvania to be governed by this Designated Fund Agreement. All terms under this Designated Fund Agreement shall be applicable only when delivery of funds have been made to and accepted by the Foundation. Delivery of said property constitutes an outright irrevocable gift to the Foundation upon the Foundation's acceptance of the gift to be used by the Foundation in carrying out its charitable purposes as set forth in the Foundation's Articles of Incorporation and Bylaws which shall be held and distributed by the Foundation upon the following terms and conditions:**

1. A permanent fund shall be established on the books of the Foundation which shall be known as the Estella J. and Dr. Kenneth L. Cooper Memorial Garden Fund ("the Fund").
2. The Fund is established to benefit the Kenneth L. Cooper Garden in Brandon Park, a public facility owned and operated by the City of Williamsport, Lycoming County, Pennsylvania ("City"), a deserving and qualified nonprofit entity. Grants from the Fund will be made to the City for the costs of maintaining the Kenneth L. Cooper Garden.
3. The Fund shall include the property received from the Donor, such property as has been or as may be, from time to time, transferred to the Foundation by the Donor for inclusion in the Fund, and such property as may, from time to time, be received by the Foundation from any other source, if accepted by it for inclusion in the Fund, and all income from the foregoing property. Those assets will be held for charitable purposes of the community in accordance with this Agreement and the governing policies of the Foundation, subject to the provisions of the Foundation's governing policies for the acceptance and rejection of gifts.
4. The Fund shall be the property of the Foundation held by it in its normal corporate capacity, subject to its governing documents (as may from time-to-time be amended) and administered by its Board of Directors ("the Board") and staff; it shall not be deemed a trust fund held by it in a trustee capacity.

5. The purpose of the Fund shall be to provide grants from the Fund's income to the City of Williamsport for the benefit of Brandon Park's Kenneth Cooper Garden in the geographic area designated in Section 2.
6. Income shall be calculated as a percentage of the market value of the Fund using a total return investment and spending approach as provided for in the Foundation's Investment & Spending Policies (as may from time-to-time be amended). The Foundation shall have the ultimate authority over and control of all property in the Fund and all distributions from the Fund. The Board shall have the power to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified organizations if in the sole judgment of the Board such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the community or area served.
7. It is the Donor's intent to establish an endowed fund. However, if the realized planned gift does not meet the minimum monetary threshold to create an endowment as defined by the Foundation's Gift Acceptance Policy (as may from time-to-time be amended), the Fund will be a nonpermanent designated fund. As a nonpermanent fund, distributions will be made by the Foundation from principal and interest based on the criteria set forth herein, so long as funds are available.
8. The Foundation will provide all appropriate accounting and related financial management services associated with the Fund. Assets of the Fund may be commingled for purposes of investments with other assets of the Foundation. Control over the investment or reinvestment of such assets and the asset management of the Fund will be exercised exclusively by the Foundation.
9. The Fund will be assessed an administrative fee as provided by the Foundation's current Investment & Spending Policies (as may from time-to-time be amended). The Fund will be assessed an investment management fee in accordance with the fees charged by the mutual funds or investment managers used by the Foundation.
10. The Fund shall be a component part of the Foundation and not a separate trust, and nothing in this Agreement shall affect the status of the Foundation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, and as an organization which is not a private Foundation within the meaning of Section 509(a) of the Code. The Fund will be administered in accordance with all federal, state and local laws governing community foundations and Internal Revenue Service regulations applicable to the grants to be awarded from the Fund. This Agreement shall be interpreted in a manner consistent with the foregoing intention and so as to conform to the requirement of the foregoing provisions of the federal tax laws and regulations issued pursuant thereto. The Foundation is authorized to amend this Agreement to conform to the provisions of any applicable law or government regulation in order to carry out the foregoing intention. References herein to provisions of the Internal Revenue Code of 1986 shall be deemed references to the corresponding provisions of any future Internal Revenue Law.

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Elizabeth Candelario, Donor

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Witness

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Jennifer D. Wilson  
President & CEO  
First Community Foundation  
Partnership of Pennsylvania

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Witness