THE CITY OF ASHEVILLE

Staff Report

Council Meeting Date: January 11, 2022

Subject: Amendments to Donation Agreements with the Asheville City Schools Foundation

Staff Resource(s): Brad Branham, City Attorney

Action Requested: Approval of amendments to two Donation Agreements with the Asheville City Schools Foundation, and direction to enter into a settlement agreement to resolve a lawsuit

Background:

- In October 2020, and April 2021, the City Council approved two Donation Agreements providing funds to the Asheville City Schools Foundation for the establishment of two scholarships.
- In October 2021, a lawsuit was filed against the City and others by WNC Citizens for Equality, Inc. challenging the legality of the donations.
- While the City disputes the allegations of the lawsuit, the plaintiff has now agreed to resolve this matter if the donation agreements are amended with updated language.
- These amendments will alter the eligibility requirements for the scholarships and add language prohibiting discrimination.
- The amended language will be as follows:

  Paragraph 1 shall be amended to replace the second and third sentences of Paragraph 1 with the following sentences: "The first is for a scholarship to be awarded in perpetuity to high school students within Asheville City Schools, based on the following criteria: In addition to the criteria set forth for all ACSF scholarships, the scholarship will give preference to applicants whose household members, including parents and/or guardians have a high school education or less, these applicants representing "first generation" college students. Additionally preference will be given to applicants who are committed to pursuing a career in education. The second is for a scholarship fund for educators and staff of Asheville City Schools who are pursuing their next level of education and/or certification, with a preference for applicants who are or were "first generation" college students."

  Paragraph 10 in each agreement shall be amended to add the following text: "ACSF shall be prohibited from discriminating based on any of the following characteristics of any applicant for award of the scholarships that are the subject of this Donation Agreement, whether the scholarship be for students of Asheville High School or employees of Asheville City Schools: race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familiar status, pregnancy, veteran status, religious belief or non-belief, age or disability."

Council Goal(s):

- A Financially Resilient City, An Equitable & Diverse Community

Committee(s):

- None

Pro(s):

- Resolves a pending lawsuit with no financial liability for the City, and preserves the Asheville City Schools Foundation scholarships.

Con(s):

- None.

Fiscal Impact:

- None.

Suggested Motion:

- Motion to approve a resolution to amend two Donation Agreements between the City of Asheville and the Asheville City Schools Foundation consistent with the language specifically provided in the Resolution, and to direct the City Attorney to execute any and all documentation to effectuate the settlement and final resolution of the lawsuit filed against the City by WNC Citizens for Equality, Inc.

Attachment(s)

- Resolution

RESOLUTION NO. 22-_____

RESOLUTION APPROVING AMENDMENTS TO DONATIONS AGREEMENTS WITH THE ASHEVILLE CITY SCHOOLS FOUNDATION

WHEREAS, on June 10, 2020, the Buncombe County Superior Court approved the settlement of a class action lawsuit regarding certain water service fees entitled Mayfair Partners, LLC v. City of Asheville; and

WHEREAS, a condition of the the settlement required that any unclaimed portion of the settlement proceeds would be donated to a charity or charities to be selected by the Asheville City Council and approved by the plaintiffs in the action: and

WHEREAS, on October 27, 2020, in closed session, the City Council selected the Asheville City Schools Foundation ("ACSF") as one of the recipients of the donations; and

WHEREAS, on April 13, 2021, the City Council approved a resolution to donate the amount of $474,592.56 in unclaimed funds to ACSF; and

WHEREAS, following the initial donation, additional residual funds in the amount of $2,875.50 remained unclaimed from the settlement of the lawsuit and were also donated to ACSF pursuant to the terms of the approved settlement; and

WHEREAS, Subsequent to these donations, a lawsuit was filed by WNC Citizens for Equality, Inc. against the City of Asheville and others, and the City Council wishes to resolve this matter by amending the Donation Agreements with ACSF; and

WHEREAS, the Donations Agreements regarding the two donations to ACSF described herein above shall be amended as follows:

Paragraph 1 shall be amended to replace the second and third sentences of Paragraph 1 with the following sentences: "The first is for a scholarship to be awarded in perpetuity to high school students within Asheville City Schools, based on the following criteria: In addition to the criteria set forth for all ACSF scholarships, the scholarship will give preference to applicants whose household members, including parents and/or guardians have a high school education or less, these applicants representing "first generation" college students. Additionally preference will be given to applicants who are committed to pursuing a career in education. The second is for a scholarship fund for educators and staff of Asheville City Schools who are pursuing their next level of education and/or certification, with a preference for applicants who are or were "first generation" college students."

Paragraph 10 in each agreement shall be amended to add the following text: "ACSF shall be prohibited from discriminating based on any of the following characteristics of any applicant for award of the scholarships that are the subject of this Donation Agreement, whether the scholarship be for students of Asheville High School or employees of Asheville City Schools: race, natural hair or hairstyles, ethnicity, creed, color, sex, sexual orientation, gender identity or expression, national origin or ancestry, marital or familiar status, pregnancy, veteran status, religious belief or non-belief, age or disability."

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The Asheville City Council hereby approved the aforementioned amendments to the Donation Agreements with ACSF consistent with the language provided in this Resolution, and further directs the City Attorney to execute any and all documentation to effectuate the settlement and final resolution of the lawsuit filed against the City by WNC Citizens for Equality, Inc. consistent with the terms contained herein.

Read, approved and adopted this 11th day of January, 2022.

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CITY CLERK MAYOR

APPROVED AS TO FORM:

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CITY ATTORNEY