

# CITY OF PALM DESERT STAFF REPORT

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MEETING DATE: August 22, 2024

PREPARED BY: Gary Shaffer, Director of Library Services

SUBJECT: ESTABLISH THE PALM DESERT CITY FOUNDATION, A 501(C)(3) NONPROFIT PUBLIC BENEFIT CORPORATION, DETERMINE BOARD STRUCTURE, AND APPROVE DRAFT DOCUMENTS

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## **RECOMMENDATION:**

1. Authorize the City Manager to form a 501(c)(3) organization, named “Palm Desert City Foundation”, to support fundraising, initially for the library, with the ability to expand for other civic needs as they arise.
2. Provide direction on the Board’s membership and composition.
3. Authorize the City Manager to execute all necessary documents and make any non-substantive changes necessary to effectuate this action.

## **BACKGROUND:**

The City has assumed local library services from the County of Riverside and its library operator LSS. Operations began on July 1, 2024. Many libraries have affiliated 501(c)(3) organizations that help with the funding of library programs and capital campaigns. Section 501(c)(3) is the portion of the US Internal Revenue Code that allows for federal tax exemption of nonprofit organizations that meet the code's requirements.

The proposed Palm Desert City Foundation (Foundation) will be specific to Palm Desert, focusing initially on major fundraising for the new library. The Foundation’s scope can later expand to include other City operations with fundraising or capital needs (e.g., public art, aquatic centers, fire stations, parks, and police stations) as they arise. Forming a 501(c)(3) organization will enable the City to seek donations and apply for foundation grants due to its tax-exempt status. While donations to the City are tax-deductible, if made exclusively for public purposes, the City is not classified as a 501(c)(3) tax-exempt organization, a requirement for many foundation grants.

Forming a 501(c)(3) would require specific legal and financial steps for incorporation, along with on-going reporting requirements. By approving this action, the City Manager will be authorized to proceed and implement this initiative promptly.

## **ANALYSIS:**

City staff seeks City Council direction on the proposed Foundation Board’s membership and composition. To provide context, below is the board structures of two neighboring library foundations:

### **Rancho Mirage Library & Observatory Foundations:**

- 9 members consisting of 8 members of the public and the current Mayor.

### **Palm Springs Public Library Foundation:**

- 19 public members consisting of 4 executive members and 15 members at large.

**Proposed Board Structure:**

Although it is permissible for City Council members to serve on the Foundation Board, after consultation with the City Attorney’s Office, City staff does not recommend this approach because it does not provide enough separation between the two entities. Instead, City staff recommends the following Board structure:

- Five public members and two alternates, appointed by the City Council.
- Two members of the City Council serve as liaisons to the Board.

In both options, the Foundation would be subject to the Brown Act since it is an entity created by the City. Draft bylaws and articles of incorporation are attached and will be modified based on the City Council’s direction.

**Legal Review:**

This report has been reviewed by the City Attorney’s office.

**FINANCIAL IMPACT:**

The costs associated with the formation are estimated not to exceed \$10,000. These funds have been included in the approved FY 2024-25 Annual Budget in Library Services Account No. 2524662-4309000. There is no impact to the General Fund with this action.

**ATTACHMENTS:**

1. Palm Desert City Foundation Draft Bylaws
2. Palm Desert City Foundation Draft Articles of Incorporation