

CITY COUNCIL

For City Clerk's Use:

☐ **APPROVED** ☐ **DENIED**

Reso No. _____ File No. _____

Ord No. _____

Agenda Item No.: 9

TO: Honorable Mayor and Members of the City Council
FROM: Robin Bettin, Assistant Director of Community Services
SUBJECT: Escondido Recreation Foundation

RECOMMENDATION:

It is requested that Council adopt Resolution No. 2010-151 approving the Fund Agreement with the San Diego Foundation to initiate a new Escondido Quality of Life Fund, and direct the Finance Director to deposit the required amount of \$10,000 from the Recreation Scholarship Fund with the San Diego Foundation.

FISCAL ANALYSIS:

The Finance Director will be depositing \$10,000, as required by the San Diego Foundation, from the existing balance of the Recreation Scholarship account into the new Quality of Life fund administered by the San Diego Foundation. On October 23, 2010, the Recreation Division will be hosting "Families on Foot," a trail walk to raise money for the new foundation. All proceeds from the race will be deposited into the Quality of Life Fund. Monies placed into this account will be used to help defray capital expenses and help to fund programs and services in the Recreation, Parks and Older Adults Divisions of the City's Community Services Department.

COUNCIL ACTION PLAN:

This relates to the Council Action Plan for creating financial stability, by providing an alternate method for funding some of the Recreation, Parks and Older Adult programs and services, and capital expenditures. Staff hopes to increase donations to the department through the Foundation.

PREVIOUS ACTION:

During the budget preparation for FY 10/11, the Budget Subcommittee requested staff work towards reducing the Recreation Division's dependency on revenue collected from the Cable Franchise fees. Staff set a goal of reducing the amount needed from the Cable Franchise fee by \$200,000 over the next three to four years. The creation of the Quality of Life Fund is one of the strategies in this revenue enhancement plan.

Recreation Foundation
October 13, 2010
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BACKGROUND:

Staff has researched various methods of starting a foundation or an independent 501C3 and recommends the foundation be established via a funding agreement with the San Diego Foundation. This will provide donors a 501C3 to make charitable donations to and will support Recreation, Parks and Older Adult programs and services for the community. The San Diego Foundation provides the oversight and management of the funds, and allows the Recreation, Parks and Older Adults Divisions to encourage donations that will financially support those program areas.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. Bettin', followed by a long horizontal flourish.

Robin Bettin
Assistant Director of Community Services

RESOLUTION NO. 2010-151

9.

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF ESCONDIDO, CALIFORNIA,
AUTHORIZING THE MAYOR AND CITY
CLERK, TO EXECUTE, ON BEHALF OF THE
CITY, A FUND AGREEMENT WITH THE SAN
DIEGO FOUNDATION

WHEREAS, the City of Escondido, ("City") recognizes the importance of providing recreational programs and services within the community; and

WHEREAS, it is the Council's desire for those programs and services to be fiscally sustainable; and

WHEREAS, beginning a Foundation to support programs and services in the areas of Recreation, Parks and Older Adults, is a way to provide supplemental funding for these services; and

WHEREAS, the San Diego Foundation has an excellent reputation of managing community funds; and

WHEREAS, the City Council desires at this time, and deems it to be in the best public interest, to approve a Fund Agreement ("Agreement") with the San Diego Foundation; and

WHEREAS, the Community Services Director recommends an amount of \$10,000 from the Recreation Division's Scholarship funds be deposited with the Foundation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Escondido, California:

1. That the above recitations are true.

2. That the City Council accept the recommendation of the Community Services Director.

3. That the City Council authorizes the Director of Finance to deposit with the San Diego Foundation an amount of \$10,000 from the Recreation Scholarship fund.

4. That the Mayor and City Clerk are authorized to execute, on behalf of the City, an Agreement with the San Diego Foundation for the purpose of initiating a Quality of Life Fund. A copy of the Agreement is attached as Exhibit "A" and is incorporated by this reference.



FUND AGREEMENT
for the

Escondido - Quality of Life Fund
(an Advised Non-Endowment fund)

THIS AGREEMENT is made and entered into on September 30, 2010, by and between THE SAN DIEGO FOUNDATION ("TSDF") and The City of Escondido ("Founder").

1. NAME OF THE FUND

Founder transfers assets irrevocably to TSDF to establish in TSDF the Escondido - Quality of Life Fund (the "Fund"). TSDF may receive additional irrevocable gifts of property acceptable to TSDF from time to time from Founder and from any other source to be added to the Fund, all subject to the provisions hereof.

2. PURPOSE

Subject to the limitations of paragraph 4 below, the primary purpose of the fund shall be to support programs and services in the areas of Recreation, Parks and Older Adults within the City of Escondido.

3. INVESTMENT OF FUNDS

TSDF shall have all powers necessary or desirable to carry out the purposes of the Fund, including, but not limited to, the power to retain, invest and reinvest the Fund in any manner within the "prudent person" standard and the power to commingle the assets of the Fund with those of other funds for investment purposes, subject however, to the requirements of Sections 5231 and 5240 of the California Corporations Code.

4. DISTRIBUTEES

Subject to paragraph 6, principal and/or earnings allocated by TSDF to the Fund shall be distributed exclusively for charitable, scientific, literary or educational purposes or to organizations of the type to which an individual taxpayer may make deductible charitable contributions, gifts, and bequests under the income, gift and estate tax provisions of the Internal Revenue Code of 1986, as amended, and of the Revenue and Taxation Code of California. It is intended by the foregoing that at the time a distribution is made from the Fund, the distribution must be made for a charitable, scientific, literary or educational purpose as described in, or to an organization which is described in, Sections 170(c)(1) or (2), of the Internal Revenue Code of 1986, as amended, and Section 17201 of the Revenue and

Taxation Code of California. Distributions from the Fund shall be within the purposes and procedures of TSDF as contained in its Articles of Incorporation and its Bylaws.

5. RECOMMENDATIONS FOR DISTRIBUTION

- a. The Fund shall have an Advisory Committee, consisting of Assistant Director of Community Services, The City of Escondido, and Director of Community Services, The City of Escondido. The Fund Advisory Committee shall, from time to time, designate a Chair in writing signed by its members and delivered to TSDF. The Chair shall be the only person who has the authority to communicate the desires of the Fund Advisory Committee to TSDF, and shall be the "Fund Advisor." Upon the death, incapacity or resignation of any member of the Fund Advisory Committee, the remaining member(s) shall serve as the Fund Advisory Committee. Upon the death, incapacity or resignation of the last surviving member of the Fund Advisory Committee, this fund shall be converted to an endowment, to be held in perpetuity; with the Board of Governors of TSDF itself serving as the advisor of the Fund.
- b. Distributions from the Fund may be made from income and/or principal and shall be made at such times and in such amounts as may be determined by the Board of Governors. There shall be no requirement that income be distributed each year; income may be accumulated and added to principal. Consistent with the foregoing, distributions shall be made to such distributees of the type described in paragraph 4 as may be designated by TSDF; provided, however, that the Fund Advisor may from time to time submit to TSDF the names of distributees to which it is recommended that distributions be made, which distributees shall not be other than those described in paragraph 4. All recommendations from the Fund Advisor shall be solely advisory, and TSDF may accept or reject them, applying reasonable standards and guidelines with regard thereto.

6. CONTINUITY OF THE FUND

The Fund shall continue so long as assets are available in the Fund and the purposes in the Fund can be served by its continuation. If the Fund is terminated for either of the above reasons, TSDF shall devote any remaining assets in the Fund exclusively for charitable purposes that:

- a. are within the scope of the charitable purposes of TSDF's Articles of incorporation; and,
- b. most nearly approximate, in the good faith opinion of the Board of Governors, the original purpose of the Fund.

7. NOT A SEPARATE TRUST

The Fund shall be subject to the Articles of Incorporation and Bylaws of TSDF. All money and property in the Fund shall be assets of TSDF, and not a separate trust, and shall be subject only to the control of TSDF. Pursuant to Treasury Regulations, the Board of Governors of The San Diego Foundation has the power "to modify any restriction or condition on the distribution of funds for any specified charitable purpose or to any specified organization if, in the sole discretion of the Board of Governors, such restriction or condition becomes unnecessary, incapable of fulfillment, or inconsistent with the charitable needs of the community or area served." Treas. Reg. §1.170A-9(f)(11)(v)(B) and (E).

8. COSTS OF THE FUND

It is understood and agreed that the Fund shall share a fair portion of the total administrative costs of TSDF. The administrative cost annually charged against the Fund shall be determined in accordance with the then current Fee Policy identified by TSDF as the fee structure applicable to Funds of this type. Any costs to TSDF in accepting, transferring or managing property donated to TSDF for the Fund shall also be paid from the Fund.

9. ACCOUNTING

This Fund shall be accounted for separately and apart from other gifts to TSDF.

10. CHARITABLE DEDUCTIONS

It is intended by Founder and by TSDF that federal gift, income and estate tax charitable deductions shall be allowed to Founder and to Founder's estate and that TSDF shall continue to qualify as an organization described in Sections 170(b)(1)(A)(vi), 170(c), 2055(a), and 2522(a) of the Internal Revenue Code of 1986.

This entire Agreement shall be construed and applied so as to comply with the requirements of federal tax law for allowance of such charitable deductions and for such qualifications.

IN WITNESS WHEREOF, we execute this agreement on _____.

Founder: _____
The City of Escondido

Approved by the Board of Governors of The San Diego Foundation on _____.

By: _____
Gerald Hoffmeister
Chair, Board of Governors



Non-Endowment Investment Recommendations

Escondido - Quality of Life Fund

Fund Balance of \$49,999.99 or less:

All funds with a balance of \$ 49,999.00 or less will be assigned to Pool A (short term fixed income).

Fund Balance of \$50,000.00 or more:

All funds with a balance of \$ 50,000.00 or more may select from Pools A, B or C.

As advisor/founder to this fund I recommend the funds be invested in the following pool:

- ☐ Pool A - Short Term Fixed Income
- ☐ Pool B - 30% Equity
- ☐ Pool C - 60% Equity - (a 90-day advance notice for grants of \$10,000.00 or more)

Each of the investment pools above includes a money market component to allow for the liquidity needs of those funds participating in the pool.

Grants may be made from the funds throughout the life of the fund regardless of which investment pool is recommended.

For purposes of making founder-recommended grant distributions, The Foundation requires advance notification of 7 - 14 days.

I understand that assets in Investment Pools A, B & C will experience both capital gains and capital losses according to market conditions.

The City of Escondido

Date