

**SAMPLE  
AGREEMENT**



This Agreement is made and entered into as of \_\_\_\_\_, \_\_\_\_\_ (the “Effective Date”), by and between THE SAN DIEGO FOUNDATION, a California nonprofit public benefit corporation (“Manager”) and \_\_\_\_\_, a California nonprofit public benefit corporation (“Corporation”).

**RECITALS**

WHEREAS, Manager is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code (“Code”) as a community foundation; and

WHEREAS, Manager is a well established organization with an administrative staff which is experienced in the operation of an exempt organization; and

WHEREAS, Corporation is exempt from income taxation under Code Section 501(c)(3); and

WHEREAS, Corporation is a supporting organization (as defined in Code Section 509(a)(3)) of Manager, and engages in activities which support the mission of Manager; and

WHEREAS, Corporation desires to contract with Manager to provide Corporation with certain services as more particularly described in this Agreement; and

WHEREAS, Manager desires to provide such services to Corporation;

NOW THEREFORE BE IT RESOLVED, in consideration of the mutual covenants and agreements contained in this Agreement, Manager and Corporation agree as follows:

**AGREEMENT**

1. Services to be Rendered by Manager. Manager will provide to Corporation the services indicated below [*check and initial services to be provided by Manager to Corporation*].

- 1.1 Administrative Services.
  - a. Maintenance of Corporation’s records, reports and files.
  - b. Performance of related accounting services for Corporation.
  - c. Payment of accounts payable and other liabilities of Corporation.
  - d. Preparation and distribution of all financial statements required to be generated by Corporation.
  - e. Oversight of the preparation and filing of all federal and state returns required of Corporation.

- f. As needed, preparation and distribution to the governing body of Corporation of periodic reports on the financial condition of the Corporation.

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1.2 Corporate Formalities Services.

- a. Calendaring of required member and board meetings.
- b. Notice of all meetings.
- c. Facilities and secretarial support for member and board meetings.
- d. Preparation of minutes.
- e. Maintenance of minute book.
- f. Assistance with selection of candidates for the board.

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1.3 Grant Administration.

- a. Assistance with development of program goals, guidelines and a form of Request for Proposal (“RFP”).
- b. Disseminate RFP to target groups.
- c. Receive and screen all proposals.
- d. Preparation of a summary grid of proposals for review and decision by the Corporation’s governing board or officers.
- e. Prepare and send responses to applicants.
- f. Disbursement of grants with grant letters.
- g. Monitor performance of grantees.
- h. Receive and review interim and annual reports from grantees.

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Corporation acknowledges that Manager is providing only the services selected above. Any services not selected, and any services not listed above, shall not be within the scope of Manager’s responsibilities under this Agreement. Without limiting the foregoing, Corporation acknowledges that Manager is not providing any investment advice or services to Corporation, and that Corporation is responsible for the management and investment of its assets.

2. Compensation.

2.1 Administrative Services. If the Administrative Services listed in Section 1.1 of this Agreement are to be provided by Manager, Manager shall receive an annual fee for such services equal to \$ \_\_\_\_\_, payable on or before \_\_\_\_\_ of each year.

2.2 Corporate Formalities Services. If the Corporate Formalities Services listed in Section 1.2 of this Agreement are to be provided by Manager, Manager shall receive an annual fee equal to \$ \_\_\_\_\_, payable on or before \_\_\_\_\_ of each year.

2.3 Grant Administration. If Grant Administration listed in Section 1.3 of this Agreement is to be provided by Manager, Manager shall receive an annual fee equal to \$ \_\_\_\_\_, payable on or before \_\_\_\_\_ of each year.

3. Reports of the Corporation. Corporation acknowledges that Manager cannot effectively perform services under this Agreement without full access to documents and records of Corporation. Therefore, Corporation agrees to furnish Manager on a timely basis all records, billings, minute books, and other documentation necessary for Manager to perform the services under this Agreement.

4. Term. The term of this Agreement shall commence on the Effective Date and continue until terminated pursuant to Section 5 of this Agreement.

5. Termination. This Agreement may be terminated with or without cause by either party upon thirty (30) days prior written notice to the other party.

6. Independent Contractor. The parties expressly intend and agree that Manager is acting as an independent contractor. It is further specifically acknowledged and agreed that nothing in this Agreement shall be considered to create more than the mutual duties, responsibilities and benefits specifically set forth herein. This Agreement is not and shall not be considered an employer/employee relationship, joint venture or partnership of any kind, and neither party shall represent to any third persons that such relationship exists.

7. Liability. Manager shall not be liable, responsible or accountable, in damages or otherwise, to Corporation for any act or omission performed or omitted by Manager in good faith on behalf of Corporation, and in a manner reasonably believed by Manager to be within the scope of the authority conferred upon Manager by this Agreement and in the best interests of Corporation.

8. Indemnification. Corporation shall indemnify and hold harmless Manager, and its officers, directors, employees and agents, from and against any claim, loss, liability or damage (including attorneys' fees incurred by it in connection with the defense of any action based on any such alleged act or omission) incurred by reason of an act performed, or omitted to be performed, by it in good faith on behalf of the Corporation and in a manner reasonably believed by Manager to be within the scope of the authority conferred upon Manager by this Agreement and in the best interests of the Corporation, provided that such indemnification is not prohibited by law or the act or omission does not amount to gross negligence or willful misconduct. Manager shall specifically be indemnified and held harmless from any and all actions taken in good faith and in reasonable reliance on advice of Corporation's attorney(s) or accountant(s) or at the direction of Corporation's officers or directors.

9. Miscellaneous.

9.1 Further Assurance. From time to time, each party will execute and deliver such further instruments and will take such further action as any other party reasonably requests in order to discharge and perform the obligations and agreements hereunder.

9.2 Assignment. Neither Manager nor Corporation shall assign, sell, or transfer any of their rights and obligations under this Agreement. Any such assignment is expressly prohibited and shall be void without prior written consent of both parties.

9.3 Successors. This Agreement shall be binding and shall inure to the benefit of the successors and assigns of the parties to the extent this Agreement is assignable.

9.4 Entire Agreement. This Agreement contains the entire agreement between the parties relating to the subject matter contained herein.

9.5 Governing Law. This Agreement shall be governed by and shall be construed in accordance with the laws of the state of California. If any legal action is necessary to enforce the terms and conditions of this Agreement, the parties agree that the Superior Court of California, County of San Diego shall be the sole venue and jurisdiction for the bringing of such action.

9.6 Section Headings. The various section headings are inserted for convenience and reference only and shall not affect the meaning or interpretation of this Agreement or any section thereof.

9.7 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

9.8 Cost, Attorneys' Fees on Breach. Any action brought by Manager or Corporation under this Agreement by reason of any claim or cause of action against the other, arising out of or in connection with any breach or other nonperformance of the provisions of this Agreement, then any party which is successful upon a final determination of such claim or cause of action shall be entitled to reasonable preparation, investigation and court costs and reasonable attorneys' fees, as is fixed by a court of competent jurisdiction.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above.

MANAGER:  
The San Diego Foundation

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

CORPORATION:

\_\_\_\_\_

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