

SAN BRUNO

Community Foundation

Request for Proposals for Investment Management Services

January 7, 2016

Situated between San Francisco and Silicon Valley, San Bruno is a stable, friendly, family-oriented community of approximately 44,000. Diverse in many ways – racially, ethnically, culturally and socioeconomically – San Bruno is known for its attractive neighborhoods, growing economy, and proximity to major regional transportation hubs, including the San Francisco International Airport. San Bruno is a city of abundant parks and open spaces, good public schools including a well-regarded high school district and a leading community college, and many regional amenities, making it a vibrant community that, like the region in which it sits, continues to evolve.

Five years ago, on September 9, 2010, a high-pressure natural gas pipeline owned and operated by Pacific Gas and Electric Company (PG&E) exploded in San Bruno’s Crestmoor neighborhood, ultimately destroying 38 homes, killing eight people, and injuring 66 more. In the aftermath of the disaster, the City of San Bruno pursued a restitution settlement from PG&E, successfully obtaining a settlement of \$70 million to benefit all of San Bruno.¹

The settlement agreement called for the City to establish a not-for-profit organization charged with determining the use of the funds and administering them for the long-term benefit of the community as a whole. In 2013, the City Council founded the San Bruno Community Foundation for this purpose and appointed seven community members to the initial Board of Directors. The Foundation received from the Internal Revenue Service 501(c)(3) public charity status as a Type I supporting organization. The Foundation’s first executive director was hired by the Board and joined the organization in February 2015. As stated in the Foundation’s bylaws, the primary purpose of the Foundation is “to benefit the San Bruno community through enduring and significant contributions to, and investments in, charitable and community programs, and publicly owned community facilities, over the long term.”

Over the past year, the Board and Executive Director have initiated the strategic and operational work of the Foundation. The Foundation is working in coordination and cooperation with the City and other community organizations to identify and meet the interests of the community. The Foundation engaged the San Bruno community through a Community Listening Campaign conducted in the late spring of 2015 (including town hall meetings, focus groups, and an online survey), culminating in a report documenting various community needs and ways in which the restitution funds could be used to address those needs. The Foundation has adopted its Program Strategy Framework, which provides the structure and outline of the Foundation’s charitable programs and serves as the guiding document for accomplishing the Foundation’s mission. The Board recently identified a small list of projects to be considered for funding in 2016 as well as a larger list of longer-term strategic priorities to be researched and considered for implementation in the next seven to ten years.

¹ The City of San Bruno also received a separate \$50 million fund from PG&E to cover the costs associated with response, restoration, and recovery from the disaster, which the City would not otherwise have incurred were it not for the explosion. This fund is administered by an independent Trustee, not the Foundation.

The San Bruno Community Foundation now seeks an investment firm to assist in managing its investment portfolio and developing its Investment Policy Statement. Neither PG&E nor the City has placed any restrictions on how the restitution funds are to be used or invested to achieve the Foundation's mission. The Foundation Board has established an initial quasi-endowment target of approximately \$15 million to be invested utilizing a long-term investment strategy. The Foundation's goal is to grow the quasi-endowment to provide a long-term source of funds for future needs of the community, targeting a 5% annual payout while protecting the purchasing power of funds for future uses. The balance of the restitution funds (approximately \$54 million) may be spent on strategic priorities, including several major capital projects for community facilities, and operating expenses over the next seven to ten years.

The City has been holding the restitution funds in custodial accounts. The Foundation has thus far received approximately \$697,000 of the restitution funds to cover formation and operating costs through June 2016. With programs scheduled to launch in 2016, the Foundation would like to take possession of the balance of the restitution funds and begin pursuing an investment strategy consistent with its programmatic goals by late spring 2016.

The Foundation is issuing this request for proposals to manage the Foundation's funds (roughly \$69 million), not including its liquid funds in demand accounts, to best achieve our stated strategic objectives. We would like very specific information about your approach, process, pricing, and support provided to the Board and Executive Director. The Foundation is asking you to put your best thinking forward, rather than to tell us precisely what you think we may want to hear. In asking for a proposed portfolio, we appreciate that there are no absolute, right answers. We are particularly interested in how you would approach advising the Foundation over time.

PROCESS FOR SUBMITTING PROPOSALS

Only registered Investment Advisers as defined and regulated by the Securities and Exchange Commission may respond to this RFP. Proposers must have a minimum of \$2 million coverage in errors and omissions insurance or investment adviser professional liability insurance. Proposals must be valid for 120 calendar days from the due date.

The successful proposer must agree to the terms of the Foundation's professional services agreement as provided in Attachment A of this RFP, including all insurance requirements. The term of the agreement will be a period of three years with the option to renew annually. The successful proposer must also obtain a City of San Bruno business license during the term of the agreement.

The Foundation reserves the right to reject all proposals or request additional information from one or more proposers. All costs incurred in the preparation of a proposal responding to this RFP will be the responsibility of the proposer and will not be reimbursed by the Foundation.

Proposals must not be marked as confidential or proprietary. Information in submitted proposals shall be subject to public disclosure laws. All proposals shall become the property of the Foundation.

Basis for award of contract will include but not be limited to the firm's experience in providing services to nonprofit institutions of similar size and with similar investment objectives as the San Bruno Community Foundation; portfolio management resources, investment philosophy, and approach; professional experience and qualifications of the individuals assigned to the account; responsiveness to

the RFP, communicating an understanding of the overall program and services required; reporting capabilities; and fees.

The Foundation is not required to select the proposal that may indicate the lowest price or costs. The Foundation will choose the firm submitting the best and most responsive overall proposal to satisfy its needs.

Submit proposals (four hard copies in addition to an electronic copy) by January 28, 2016, to:

San Bruno Community Foundation
901 Sneath Lane, Suite 209
San Bruno, CA 94066
lhatamiya-sbcf@sanbruno.ca.gov

Finalists will be asked to interview with a selection committee on February 23, 2016. The firm recommended by the committee will be asked to make a presentation to the full Foundation Board of Directors on March 2, 2016.

Should a proposer require clarification of this RFP, the Proposal is to submit the questions in writing by email to Leslie Hatamiya, Executive Director, at lhatamiya-sbcf@sanbruno.ca.gov, no later than January 22, 2016.

SCOPE OF SERVICES

Services to be provided by the selected investment firm include, but are not limited to, the following:

1. Assist the Foundation in the development of an Investment Policy Statement, which includes a spending policy, consistent with prudent investment laws applicable to California nonprofit public benefit corporations and the California Uniform Prudent Management of Institutional Funds Act ("UPMIFA")
2. Manage two pools of the Foundation's portfolio, in accordance with the Foundation's Investment Policy Statement:
 - a. Quasi-endowment: \$15 million utilizing a long-term investment strategy
 - b. Non-endowment strategic funds: Approximately \$54 million to be used in the next 7-10 years on strategic priorities, including capital projects, and operating expenses
3. Provide monthly/quarterly/annual reporting for the Foundation's entire portfolio
4. Participate, as needed, in meetings with Foundation staff and a to-be-created Investment Advisory Committee, as well as at least one meeting per year of the Foundation Board of Directors
5. Evaluate market risk and develop strategies that minimize the impact on both portfolio pools
6. Provide assurance of portfolio compliance with applicable laws and the Foundation's Investment Policy Statement
7. Establish appropriate performance benchmarks

8. Over time, recommend amendments to the Foundation's Investment Policy Statement, as appropriate

INFORMATION AND/OR RESPONSES TO BE PROVIDED

In order to assist the Board of Directors in its search for a firm to provide the investment management services described above, please provide, by January 28, 2016, a proposal that includes responses to the following:

Approach to Nonprofit Institutions

1. What is your experience with charitable nonprofit institutions subject to UPMIFA? How many nonprofit institution clients do you currently have? What is the average value of the portfolio under management for your nonprofit institution clients? What percentage of the firm's assets under management are those of nonprofit institutions?
2. What is at the top of your mind for your firm when working specifically with the portfolios of nonprofit institutions, especially new foundations, which do not yet have an investment management strategy?
3. Created by the San Bruno City Council, the San Bruno Community Foundation is subject to California public disclosure and ethics laws (*e.g.*, Brown Act). Describe your experience in working in this environment.
4. Describe the services you provide to nonprofit institutions of our scale.

Organizational Background

1. Please describe the ownership structure of your organization giving specific details with regard to any parent(s) or affiliate(s). Include an ownership and an organization chart diagramming the relationships between the professional staff as well as the parent/subsidiary, affiliate or joint venture entities.
2. Over the past five years, has the firm, any primary consultant, or any other officer or principal been involved in any business litigation, regulatory, or other legal proceedings or government investigation involving allegations of fraud, negligence, criminal activity, or breach of fiduciary duty relating to investment consulting activities? If so, please describe the case, provide an explanation, and indicate the current status.
3. Please describe any potential or actual conflicts of interest (or appearance of a conflict of interest) that may arise if your firm is selected by the Foundation, including any monetary or non-monetary interests with PG&E or any of its affiliated entities. Also describe your method of dealing with conflicts of interest.
4. Please provide a summary of, as well as the availability of additional information regarding, your internal policies concerning compliance with regulatory and/or legal requirements, code of ethics, and best execution.

5. Please provide the levels for errors and omission insurance and any other fiduciary or professional liability insurance your firm carries. List the insurance carriers supplying the coverage.
6. Does the firm, its employees, and/or its independent contractors act as a broker or as a primary dealer in securities or receive any other form of additional compensation for client transactions aside from the direct fee paid by clients?
7. Please provide the following information about your firm's managed assets:
 - a. Historical (at least five years) firm-wide assets, including market value and number of clients
 - b. Firm-wide assets by asset class (*e.g.*, domestic and international equities, fixed income, cash, marketable alternatives, private capital, real estate) as of December 31, 2015 (both in dollars and as a percent of total assets)
8. Provide staff composition by function (*e.g.*, investments, client services, marketing, legal and compliance, IT and operations, and administrative) as of December 31, 2015.
9. Provide a breakdown of your client base by institution category (*e.g.*, nonprofit institutions, pension plans, corporate clients, and high net worth individuals) as of December 31, 2015. For each category, include the number of clients and client assets under management (in both dollars and as a percent of total assets).
10. Describe the level of client servicing and reporting you provide. Specifically, describe how you work with finance committees that meet intermittently to balance that schedule with potentially more frequent rebalancing needs.
11. Describe the educational materials you provide to clients, how they are delivered, and at what frequency.
12. How do you measure your firm's performance in helping clients meet their objectives?
13. Please provide a representative client list, including nonprofit institutions.
14. What characteristics distinguish your firm from your competitors?
15. Please provide the names, titles, and biographies of key individuals who would be responsible for this relationship. Detail their roles and the scope of their involvement for this relationship. Provide the name and title of the individual who would be the primary manager of this account.
16. Please provide contact information for three references, preferably nonprofit institutions (both public charities and private foundations) with comparable amounts of assets to manage.
17. Please certify your firm's status as a registered Investment Adviser. Provide an online link to your firm's Form ADV.

Investment Management

1. Describe your firm's investment philosophy. Indicate how you balance investment philosophy with liquidity needs.

2. Describe your firm's investment process, particularly highlighting how an investment strategy is executed. Please describe the average asset allocation for current endowment/foundation clients with target 5% payout obligations.
3. Describe your firm's approach to managing risk.
4. As of December 31, 2015, please provide the one, three, five and ten-year annualized returns (as available) against appropriate benchmark returns for an asset allocation similar to that of a typical foundation client. Please present returns gross and net of investment management/advisory fees.
5. How would you assist the Foundation in the development of an Investment Policy Statement?
6. Describe how you would work with the San Bruno Community Foundation to develop asset allocation recommendations and liquidity projections. What asset allocation and sample investment vehicles would you recommend for the San Bruno Community Foundation for each of its two pools of funds (\$15 million quasi-endowment and \$54 million non-endowment strategic funds)? What more would you need to know from the Foundation to be certain that you were devising the right strategy for the Foundation?
7. What performance benchmarks would your firm recommend for this portfolio?
8. Describe your firm's portfolio and performance reporting and evaluation services.
9. Please provide sample monthly and quarterly reports.
10. If you would propose any alternative investments for the \$15 million quasi-endowment, provide detail on the types of investments and your firm's experience in selecting and monitoring these types of funds.
11. Discuss your firm's assessment of the current market outlook and how your firm plans to provide performance for clients in the years ahead.

Fees

1. Given the asset allocation and fund choices stated above, what is your proposed fee structure? Please provide a breakdown of fees by individual product. Indicated fees should note the specific estimated fees for investment management, advisory, and custodial services separately, as well as fees on underlying investment products. Include all fees associated with managing the portfolio. Please note that more information in this section is better than less. Should you wish to provide a spreadsheet that calculates fees under different assumptions, please feel free, but do ensure that different fee categories can be seen and understood easily. Clearly separate the fees for the quasi-endowment portion and the roughly \$54 million of non-endowment assets.
2. What additional expenses not covered in the fee structure will be expected in order to implement the firm's investment management services?
3. What other services can you provide? What is the cost for these services?

SAN BRUNO

Community Foundation

AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES FOR INVESTMENT MANAGEMENT SERVICES

This agreement (“Agreement”) is entered into by and between the San Bruno Community Foundation, the “Foundation,” a California 501(c)(3) nonprofit corporation, and _____ [insert legal name; if a sole proprietorship, list the individual’s legal name, and, if applicable, the fictitious business name (dba)], a [insert form of company: corporation of __, limited liability company, sole proprietor], with offices located in _____ (“Consultant”). Its purpose is to clearly define the responsibilities and compensation of the Consultant.

1. **Consulting Relationship.** During the term of this Agreement, Consultant will provide consulting services (the “Services”) to the Foundation as described on Exhibit A attached to this Agreement. Consultant represents that Consultant is duly licensed (as applicable) and has the qualifications, the experience and the ability to properly perform the Services in a manner commensurate with community professional standards and applicable laws. Consultant shall use Consultant’s best efforts to perform the Services such that the results are satisfactory to the Foundation. Consultant shall maintain a City of San Bruno business license during the term of this Agreement.

2. **Fees and Costs.** As consideration for the Services to be provided by Consultant and other obligations, the Foundation shall pay to Consultant the amounts specified in Exhibit B attached to this Agreement at the times specified therein.

3. **Expenses.** Consultant shall not be authorized to incur on behalf of the Foundation any fees or expenses not listed on Exhibit B without the prior consent of the Foundation’s Executive Director.

4. **Term and Termination.** Consultant shall serve as a consultant to the Foundation for a period of three years, commencing on _____, and terminating on _____. Thereafter, the contract may be renewed annually by the Foundation.

Notwithstanding the above, the Foundation may terminate this Agreement at any time upon two weeks’ written notice. In the event of such termination, Consultant shall cease all work under this Agreement and shall transfer all documents prepared as part of the work to the Foundation. The Foundation shall pay Consultant for any portion of the Services that have been performed prior to the termination.

5. **Background Check.** Consultant agrees to provide information to the Foundation regarding its process for conducting credit and background checks on employees who will be working on the Foundation’s account, and this Agreement is contingent on the Foundation approving such information.

6. **Independent Contractor.** Consultant’s relationship with the Foundation will be that of an independent contractor and not that of an employee.

a. **Method of Provision of Services.** Consultant shall be solely responsible for determining the method, details and means of performing the Services. Consultant may, at Consultant's own expense, employ or engage the service of such employees or subcontractors as Consultant deems necessary to perform the Services required by this Agreement, subject to the limitations set forth in Section 8. Such employees or subcontractors are not the employees of the Foundation, and Consultant shall be wholly responsible for the professional performance of the Services by Consultant's employees and subcontractors such that the results are satisfactory to the Foundation.

b. **No Authority to Bind Foundation.** Neither Consultant nor any partner, agent, or employee of Consultant has authority to enter into contracts that bind the Foundation or create obligations on the part of the Foundation without the prior written authorization of the Foundation.

c. **No Benefits.** Consultant acknowledges and agrees that Consultant (or Consultant's employees, if Consultant is an entity) will not be eligible for any Foundation employee benefits and, to the extent Consultant (or Consultant's employees, if Consultant is an entity) otherwise would be eligible for any Foundation employee benefits but for the express terms of this Agreement, Consultant (on behalf of itself and its employees) hereby expressly declines to participate in such Foundation employee benefits.

d. **Tax Indemnification.** Consultant shall have full responsibility for applicable withholding taxes for all compensation paid to Consultant, its partners, agents or its employees under this Agreement, and for compliance with all applicable labor and employment requirements with respect to Consultant's self-employment, sole proprietorship or other form of business organization, and Consultant's partners, agents and employees, including state worker's compensation insurance coverage requirements and any U.S. immigration visa requirements. Consultant agrees to indemnify, defend and hold the Foundation harmless from any liability for, or assessment of, any claims or penalties with respect to such withholding taxes, labor or employment requirements, including any liability for, or assessment of, withholding taxes imposed on the Foundation by the relevant taxing authorities with respect to any compensation paid to Consultant or Consultant's partners, agents, or its employees.

e. **Liability Indemnification.** Consultant shall indemnify, defend, and hold the Foundation, its Board of Directors, officers, agents, employees, and the City of San Bruno harmless from any and all claims, damages, losses, causes of action, and demands, including reasonable attorney's fees and costs, incurred in connection with or in any manner arising out of Consultant's performance of the work contemplated by this Agreement. Acceptance of this Agreement constitutes acknowledgement that the Consultant is not covered under the Foundation's general liability insurance, employee benefits, or worker's compensation insurance. It further establishes that the Consultant shall be fully responsible for all insurance coverages required under this Agreement.

f. **Insurance.** Consultant shall return an executed copy of this Agreement with proof of insurance and endorsements to insurance coverage satisfactory to the Foundation that shows that on or before beginning any of the services or work called for by any term of this Agreement, Consultant, at its own cost and expense, shall carry, maintain for the duration of the Agreement insurance coverage naming the Foundation, its officers, officials and employees, as well as the City of San Bruno, as additional insureds, as follows: (i) statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant with limits not less than \$1,000,000, (ii) Commercial General and Automobile

Liability insurance in an amount not less than \$1,000,000 per occurrence, and (iii) professional liability insurance for licensed professionals performing work pursuant to this agreement in an amount not less than \$2,000,000 covering the licensed professionals' errors and omissions. Consultant shall not allow any subcontractor to commence work on any subcontract until all insurance required of the Consultant has also been obtained for the subcontractor.

7. **Reporting of Consultant's Services.** Consultant will be required to report to the Executive Director concerning the Services performed under this Agreement. The nature and frequency of these reports will be left to the reasonable discretion of the Executive Director. The Executive Director is responsible for the retention of Consultant's services and agreement on scope of work.

8. **Assignment and Subcontracting.** Consultant shall not assign this Agreement or any portion thereof to a third party without the prior written consent of the Foundation, and any attempted assignment without such prior written consent in violation of this Section shall automatically terminate this Agreement. Unless otherwise specified in Exhibit A, Consultant shall not subcontract any portion of the performance contemplated and provided for herein without prior written approval of the Foundation.

9. **Discrimination and Harassment Prohibited.** Consultant will comply with all applicable local, state, and federal laws and regulations prohibiting discrimination and harassment.

10. **Confidential Information.** Consultant agrees at all times during the term of this Agreement and thereafter to hold in strictest confidence and not to use, except for the benefit of the Foundation to the extent necessary to perform under this Agreement, or to disclose to any person, firm, corporation, or other entity, without written authorization of the Board of Directors of the Foundation, any Confidential Information of the Foundation. Consultant further agrees not to make copies of such Confidential Information except as authorized by the Foundation. As used in this Agreement, the term "Confidential Information" means information pertaining to any aspects of the Foundation's business which is either information not known by the general public or is proprietary information of the Foundation or its affiliates, whether of a technical nature or otherwise.

11. **Ownership of Documents.** All work product produced by Consultant or its agents, employees, and subcontractors pursuant to this Agreement is the property of the Foundation. In the event this Agreement is terminated, all work product produced by Consultant or its agents, employees, or subcontractors shall be delivered at once to the Foundation.

12. **Retention of Records.** Consultant shall maintain all records related to this Agreement for no less than ten years after the Foundation makes final payment or after termination of this contract and all other pending matters are closed. All records shall be subject to the examination and/or audit by agents of the Foundation.

13. **Conflict of Interest.**

a. **In General.** Consultant represents and warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances that could give rise to a "conflict of interest," as that term is defined in the Political Reform Act, as codified at California Government Code Section 81000, et seq., on the part of the Consultant, or that Consultant has already disclosed all such relevant information in writing.

b. **Subsequent Conflict of Interest.** Consultant agrees that if an actual or potential conflict of interest in the part of the Consultant is discovered after award, the Consultant will make a full disclosure in writing to the Foundation. This disclosure shall include a description of the actions, which the Consultant has taken or proposes to take, after consultation with the Foundation to avoid, mitigate, or neutralize the actual or potential conflict and shall take all such steps within 30 days.

c. **Interests of Foundation Officers, Board Members, and Staff.** No officer, board member or employee of the Foundation shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof. Neither Consultant nor any member of the Consultant's family shall serve on any Foundation board or committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises Consultant's operations or authorizes funding Consultant.

14. **Conflicts with this Agreement.** Consultant represents and warrants that neither Consultant nor any of Consultant's partners, employees, or agents is under any pre-existing obligation in conflict or in any way inconsistent with the provisions of this Agreement. Consultant represents and warrants that Consultant's performance of all the terms of this Agreement will not breach any agreement to keep in confidence proprietary information acquired by Consultant in confidence or in trust prior to commencement of this Agreement. Consultant warrants that Consultant has the right to disclose and/or use all ideas, processes, techniques and other information, if any, which Consultant has gained from third parties, and which Consultant discloses to the Foundation or uses in the course of performance of this Agreement, without liability to such third parties. Notwithstanding the foregoing, Consultant agrees that Consultant shall not bundle with or incorporate into any deliverables provided to the Foundation herewith any third party products, ideas, processes, or other techniques, without the express, written prior approval of the Foundation. Consultant represents and warrants that Consultant has not granted and will not grant any rights or licenses to any intellectual property that would conflict with Consultant's obligations under this Agreement. Consultant will not knowingly infringe upon any copyright, trade secret, or other property right of any former client, employer, or third party in the performance of the Services required by this Agreement.

15. **Miscellaneous.**

a. **Amendments and Waivers.** Any term of this Agreement may be amended or waived only with the written consent of the parties.

b. **Sole Agreement.** This Agreement, including the Exhibits hereto, constitutes the sole agreement of the parties and supersedes all oral negotiations and prior writings with respect to the subject matter hereof.

c. **Notices.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or by courier, overnight delivery service or confirmed facsimile, 48 hours after being deposited in the regular mail as certified or registered mail (airmail if sent internationally) with postage prepaid, if such notice is addressed to the party to be notified at such party's address or facsimile number as set forth below, or as subsequently modified by written notice.

d. **Choice of Law and Venue.** The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of California, without

giving effect to the principles of conflict of laws. Venue for state court shall be in Redwood City and for federal court in San Francisco.

e. **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.

f. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

g. **Alternative Dispute Resolution.** If any dispute arises between the parties that cannot be settled after engaging in good faith negotiations, the Foundation and Consultant agree to resolve the dispute in accordance with the following:

i. Each party shall designate a senior management or executive level representative to negotiate any dispute.

ii. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

iii. If the issue remains unresolved after ten days of good faith negotiations, the parties shall attempt to resolve the disagreement by negotiation between legal counsel. If the above process fails, the parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

iv. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days and shall be concluded within 15 days from the commencement of the mediation.

v. The parties shall equally bear the costs and fees of any third party in any alternative dispute resolution process.

vi. The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as a remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by any applicable laws.

h. **Advice of Counsel.** EACH PARTY ACKNOWLEDGES THAT, IN EXECUTING THIS AGREEMENT, SUCH PARTY HAS HAD THE OPPORTUNITY TO SEEK THE ADVICE OF INDEPENDENT LEGAL COUNSEL, AND HAS READ AND UNDERSTOOD ALL OF THE TERMS AND PROVISIONS OF THIS AGREEMENT. THIS AGREEMENT SHALL NOT BE CONSTRUED AGAINST ANY PARTY BY REASON OF THE DRAFTING OR PREPARATION HEREOF.

[Signature Page Follows]

The parties have executed this Agreement on the respective dates set forth below.

SAN BRUNO COMMUNITY FOUNDATION

By: Leslie Hatamiya

Title: Executive Director

Signature: _____

Address: 901 Sneath Lane, Suite 209, San Bruno, CA 94066

Date: _____

NAME OF CONSULTANT

Title: Consultant

Signature: _____

Address: _____

Date: _____

EXHIBIT A

DESCRIPTION OF SERVICES

EXHIBIT B

COMPENSATION