

AN ORDINANCE 2008-09-18-0832

APPROVING THE RENEWAL OF A CONTRACT WITH SAN ANTONIO FOR GROWTH ON THE EASTSIDE, INC. (SAGE) TO PROVIDE CONSULTING SERVICES FOR AN AMOUNT NOT TO EXCEED \$56,441.00 FROM SAGE IN CONNECTION WITH IMPLEMENTATION OF ITS NEIGHBORHOOD COMMERCIAL REVITALIZATION PLANS AND ECONOMIC DEVELOPMENT ACTIVITIES IN DISTRICT 2 BEGINNING OCTOBER 1, 2008 AND ENDING ON SEPTEMBER 30, 2009.

* * * * *

WHEREAS, the City created the Neighborhood Commercial Revitalization Program (NCR) in 1998 to promote the revitalization of neighborhood commercial districts by attracting consumers, private sector investment, and employment opportunities in targeted commercial districts; and

WHEREAS, the NCR program works with community-based non-profit organizations such as San Antonio for the Growth of the Eastside, Inc. (SAGE), a participant in the NCR Program, to accomplish these goals; and

WHEREAS, as part of its participation in the NCR Program, the SAGE Board previously utilized the services of an organizational consultant to develop a Visioning and Strategic Plan (the "Plan"); and

WHEREAS, the Plan outlined various goals and strategies for the organization to pursue economic development on the eastside of San Antonio; and

WHEREAS, the City and SAGE have previously entered into an Agreement which provided for the City offering consulting services by an economic development specialist in exchange for payment by SAGE; and

WHEREAS, the City and SAGE wish to renew their Agreement, and as such, the City shall offer said services to SAGE in exchange for payment in an amount not to exceed \$56,441.00; and

WHEREAS, SAGE has the need for Consulting Services of an economic development specialist with knowledge in implementation of neighborhood commercial revitalization plans to facilitate its efforts to encourage economic development on the east side; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager or her designee is authorized to execute a contract with San Antonio for Growth on the Eastside, Inc. (SAGE) to provide consulting services for an amount not to exceed \$56,441.00 from SAGE in connection with implementation of its neighborhood commercial revitalization plans and economic development activities in District 2 beginning

October 1, 2008 and ending on September 30, 2009. A copy of the proposed contract is attached hereto and incorporated herein for all purposes as Attachment I.

SECTION 2. Funds generated by this ordinance will be deposited into Fund 11001000 General Fund, Internal Order 261000000010 HNSD-NCR, General Ledger 6301120 Recovery of Current Year Expenditures.

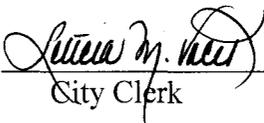
SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 4. This Ordinance shall become effective immediately upon passage by eight (8) affirmative votes of the entire City Council; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

PASSED AND APPROVED this 18th day of September, 2008.


M A Y O R

PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney



Request for
**COUNCIL
ACTION**



Agenda Voting Results - 38

Name:	5, 6, 7, 8, 10, 12, 13, 14, 20, 23, 24, 25, 26, 27, 28, 29, 31A, 31B, 32, 33, 34A, 34B, 36A, 36B, 38, 43, 44, 45A, 45B, 45C, 45D, 45E, 45F, 45G
Date:	09/18/2008
Time:	09:23:29 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing the renewal of an agreement with San Antonio for Growth on the Eastside, Inc. (SAGE) for SAGE to provide funding for the services of an economic development specialist to SAGE in an amount not to exceed \$56,441.00 to facilitate the continuation of its neighborhood commercial revitalization plans and economic development activities in Council District 2 for the period October 1, 2008 through September 30, 2009. [T.C. Broadnax, Assistant City Manager; David D. Garza, Director, Housing and Neighborhood Services]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Sheila D. McNeil	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4		x				x
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9		x			x	
John G. Clamp	District 10		x				

MEMORANDUM OF AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This MEMORANDUM OF AGREEMENT is hereby made and entered into by and between the CITY OF SAN ANTONIO (hereinafter referred to as "CITY"), a Texas municipal corporation, acting by and through its Assistant City Manager pursuant to Ordinance No. _____ dated September 18, 2008 and SAN ANTONIO FOR GROWTH ON THE EASTSIDE, INC. (hereinafter referred to as "SAGE"), a Texas non-profit corporation, acting by and through its Board Chair, hereto duly authorized.

WHEREAS, the CITY created the Neighborhood Commercial Revitalization (NCR) Program in 1998 to promote the revitalization of neighborhood commercial districts by attracting consumers, private sector investment, and employment opportunities in targeted commercial districts; and

WHEREAS, the NCR Program works with community-based non-profit organizations such as San Antonio for Growth on the Eastside, Inc. (SAGE) to accomplish the goals of the NCR Program by providing resources for administrative and capital expenses; and

WHEREAS, SAGE, borne out of the need for a comprehensive economic planning and development organization on San Antonio's Eastside, is comprised of a group of individuals representing a wide range of professional disciplines who have come together to form a board of directors; and

WHEREAS, the CITY desires to extend the economic growth and new development experienced in the downtown area eastward across the imaginary border that separates the lower economic Eastside community from downtown San Antonio; and

WHEREAS, to that end, the City Council, pursuant to Ordinance No. 2007-04-19-0456 continued investment in this effort and approved a contract for up to \$235,000.00 with SAGE in support of revitalization and economic development efforts in District 2; and

WHEREAS, as part of its participation in the NCR Program, the SAGE Board developed a Visioning and Strategic Plan (the "Plan") that outlined various goals and strategies for the organization to pursue economic development on the eastside of San Antonio; and

WHEREAS, the CITY and SAGE have previously negotiated the CITY's provision of the consulting services of an economic development specialist employed by the City to SAGE, which will allow the organization to continue its efforts as outlined in the Plan; and

WHEREAS, the City finds that the municipal public purposes of revitalization of neighborhood commercial districts by attracting consumers, private sector investment, and employment opportunities in targeted commercial districts are served by this agreement;

NOW THEREFORE:

In consideration of the mutual covenants and provisions contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. TERM

1.1 Except as otherwise provided for pursuant to the provisions hereof, this MEMORANDUM OF AGREEMENT shall commence **October 1, 2008** and shall terminate on **September 30, 2009**.

II. RESPONSIBILITIES

2.1 It is expressly understood by CITY and SAGE that the purpose of this MEMORANDUM OF AGREEMENT is to formalize the roles and responsibilities of the CITY and SAGE with respect to the provision of consulting services by an economic development specialist employed by the City to SAGE, for the purpose of assisting with organizational and planning services, for the term outlined in Article 1.

2.2 Unless written notification by SAGE to the contrary is received, SAGE's Board of Directors shall be responsible for the management of all contractual matters pertaining to this MEMORANDUM OF AGREEMENT. The CITY, or its representative, shall communicate with the Board Chair or designee, who shall be the contact for SAGE with regard to ongoing daily business communication contact.

2.3 City's Assistant City Manager responsible for oversight of the City's Housing and Neighborhood Services Department or his designate shall be CITY's representative responsible for the administration of this MEMORANDUM OF AGREEMENT.

2.4 Communications between CITY and SAGE shall be directed to the designated representatives of each as set forth in paragraphs numbered 2.2 and 2.3 hereinabove.

III. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

3.1 SAGE shall observe and comply with all city, state and federal laws, regulations, ordinances and codes affecting SAGE's operations pursuant to this MEMORANDUM OF AGREEMENT.

IV. LEGAL AUTHORITY

4.1 SAGE represents, warrants, assures and guarantees that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this MEMORANDUM OF AGREEMENT and to perform the responsibilities herein required.

4.2 The signer of this MEMORANDUM OF AGREEMENT for SAGE represents, warrants, assures and guarantees that he or she has full legal authority to execute this MEMORANDUM OF AGREEMENT on behalf of SAGE and to bind SAGE to all terms, performances and provisions herein contained.

4.3 In the event that a dispute arises as to the legal authority to enter into this MEMORANDUM OF AGREEMENT of either SAGE or the person signing on behalf of SAGE, CITY shall have the right, at its option, to either temporarily suspend or permanently terminate this MEMORANDUM OF AGREEMENT.

V. PERFORMANCE BY CITY

5.1 CITY, in accordance and compliance with the terms, provisions and requirements of this MEMORANDUM OF AGREEMENT, shall provide the consulting services of a CITY employee, specifically an economic development specialist, who shall manage, perform and provide all of the activities and services set forth in the Work Statement attached hereto and incorporated herein for all purposes as if fully set forth as Exhibit "A". Any modifications and alterations to Exhibit "A" shall be agreed upon in writing by the parties.

5.2 It is expressly understood by CITY and SAGE that while the services of an economic development specialist employed by the CITY shall be directed towards the duties and tasks set forth in Exhibit "A," which shall include organizational and planning services to SAGE, the designated specialist shall at all times be a City employee and as such is subject to all rules, regulations and administrative policies thereof.

5.3 CITY shall be solely responsible for payment of all compensation, continuance of benefits and any other legal obligations to the economic development specialist as a CITY employee.

5.4 It is expressly understood by CITY and SAGE that this MEMORANDUM OF AGREEMENT in no way obligates the CITY to assume any business, project or contract of SAGE, nor shall the CITY be liable to SAGE or to third parties in connection with said business, project or contract.

VI. PERFORMANCE BY SAGE

6.1 As consideration for the expertise and dedicated organizational and planning services to be provided by an economic development specialist to SAGE in furtherance of its Visioning and

Strategic Plan (the "Plan") for economic development on the eastside of San Antonio, SAGE shall advance payment to the CITY in four quarterly payments, with each quarterly payment to be made on the following dates and in an amount and form to be determined by the City:

- (A) On or before October 1, 2008; and
- (B) On or before January 1, 2009; and
- (C) On or before April 1, 2009; and
- (D) On or before July 1, 2009.

Notwithstanding any other provision of this AGREEMENT, the total of all payments and other obligations made or incurred by SAGE hereunder shall not exceed the sum of FIFTY-SIX THOUSAND FOUR HUNDRED FORTY ONE AND NO/100THS DOLLARS (\$56,441.00). It is expressly understood and agreed by CITY and SAGE that CITY's obligations to provide consulting services under this Article are contingent upon the actual receipt of funds from SAGE prior to commencement of the quarter for which services are to be provided. In the event SAGE, during the term of this Agreement, does not pay the CITY the required funding, CITY shall be under no obligation to SAGE to provide consulting services.

VII. PERFORMANCE EVALUATION

7.1 It is expressly understood by SAGE that the economic development specialist providing consulting services to SAGE is a City employee. As such, the position is subject to annual performance evaluations by the CITY and status of employment based upon performance evaluation shall conform to all City rules and regulations.

7.2 SAGE shall provide the CITY with quarterly performance reviews and accomplishments of the economic development specialist. Additionally, CITY shall seek input from the SAGE Board during the employees annual review process regarding the performance of the economic development specialist providing consulting services. SAGE shall provide advisory guidance to the economic development specialist in order to facilitate successful performance of the duties set forth in the Work Statement and in accordance with the organization's mission. However, the economic development specialist shall at all times be under the supervision of City management.

VIII. ACCESSIBILITY OF RECORDS

8.1 Intentionally deleted.

IX. INSURANCE

9.1 Prior to the commencement of any work under this AGREEMENT, SAGE shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City's Housing and Neighborhood Services Department. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf.

9.2 SAGE's financial integrity is of interest to the CITY; therefore, SAGE shall obtain and maintain in full force and effect for the duration of this AGREEMENT, and any extension hereof, at SAGE's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:

TYPE	AMOUNTS
1. Commercial General Liability Insurance to include coverage for the following: <ul style="list-style-type: none"> a. Premises operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual Liability 	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
2. Business Automobile Liability <ul style="list-style-type: none"> a. Owned/leased vehicles b. Non-owned vehicles c. Hired Vehicles 	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence
3. Directors and Officers Liability	\$1,000,000
4. Crime Coverage	\$100,000

9.3 SAGE agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
- Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

9.4 It is agreed that SAGE's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this AGREEMENT.

X. INDEMNIFICATION

10.1 SAGE covenants and agrees to FULLY INDEMNIFY, and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers, and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to SAGE's activities under this MEMORANDUM OF AGREEMENT, including any acts or omissions of SAGE, any agent, officer, director, representative, employee, consultant or subcontractor of SAGE, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this MEMORANDUM OF AGREEMENT, all without however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS MEMORANDUM OF AGREEMENT. The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. SAGE shall promptly advise the CITY in writing of any claim or demand against the CITY or SAGE known to SAGE related to or arising out of SAGE's activities under this MEMORANDUM OF AGREEMENT and shall see to the investigation of and defense of such claim or demand at SAGE's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving SAGE of any of its obligations under this paragraph.

10.2 It is the EXPRESS INTENT of the parties to this MEMORANDUM OF AGREEMENT, that the INDEMNITY provided for in this Article is an INDEMNITY extended by SAGE to INDEMNIFY, PROTECT and HOLD HARMLESS, the CITY from the consequences of the CITY's OWN NEGLIGENCE, provided however, that the INDEMNITY provided for in this Article SHALL APPLY only when the NEGLIGENT ACT of the CITY is a CONTRIBUTORY CAUSE of the resultant injury, death, or damage, and shall have no application when the negligent act of the CITY is the sole cause of the resultant injury, death, or damage. SAGE further AGREES TO DEFEND, AT ITS OWN EXPENSE, and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY, any claim or litigation brought against the CITY and its elected officials, employees,

officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

XI. CONFLICT OF INTEREST

11.1 SAGE acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as City owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: A City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is subcontractor on a City contract, a partner or a parent or subsidiary business entity.

11.2 SAGE warrants and certifies, and this MEMORANDUM OF AGREEMENT is made in reliance thereon, that no City officer or employee nor any spouse, parent, child sibling or first-degree relative of a City officer or employee owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity). SAGE further warrants and certifies that is has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City's Ethics Code.

11.3 SAGE covenants that neither it nor any member of its' governing bodies or of its' staff presently has any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this MEMORANDUM OF AGREEMENT. SAGE further covenants that in the performance of this MEMORANDUM OF AGREEMENT, no persons having such interest shall be employed or appointed as a member of its' governing bodies or of its' staff.

11.4 SAGE further covenants that no member of its' governing bodies or of its' staff shall possess any interest in, or use their position for, a purpose that is or gives the appearance of being motivated by desire for private gain for themselves or others, particularly those with which they have family, business, or other ties.

XII. MEETINGS

12.1 During the term of this MEMORANDUM OF AGREEMENT, SAGE shall cause to be delivered to CITY copies of all notices of meetings of its governing body and/or committees. Said copies of notices shall set forth the time and place of each meeting, shall be delivered to CITY no later than five (5) business days prior to such meeting, so as to give CITY adequate notice thereof and shall include therein an agenda and a brief description of the matters to be discussed thereat.

12.2 SAGE agrees that the City through its designated economic development specialist or other designee shall, during the term of this AGREEMENT, have the right to attend all Board of Directors' meetings. Additionally, SAGE understands and agrees that CITY representatives shall be afforded access to all Board of Directors' meetings.

12.3 During the term of this MEMORANDUM OF AGREEMENT, CITY shall continue to provide staff assistance to SAGE's Board of Directors, including the posting and recordation of all notices of meetings, preparation of minutes, resolutions and other governing documents to be reviewed and approved by the Board of Directors.

12.4 Approved minutes of all meetings of SAGE's governing body shall be submitted to CITY within thirty (30) working days of approval.

XIII. CHANGES AND AMENDMENTS

13.1 Except when the terms of this MEMORANDUM OF AGREEMENT expressly provide otherwise, any alterations, additions, or deletions to the terms hereof shall be by amendment in writing executed by both CITY and SAGE.

13.2 It is understood and agreed by the parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this MEMORANDUM OF AGREEMENT and that any such changes shall be automatically incorporated into this MEMORANDUM OF AGREEMENT without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XIV. TERMINATION

14.1 "Termination" of this MEMORANDUM OF AGREEMENT shall mean termination by expiration of the MEMORANDUM OF AGREEMENT term or earlier termination pursuant to any of the provisions hereof.

14.2 CITY may terminate this MEMORANDUM OF AGREEMENT for any of the following reasons:

- (A) Neglect or failure by SAGE to perform or observe any of the terms, conditions, covenants or guarantees of this MEMORANDUM OF AGREEMENT or of any written contract or amendment between CITY and SAGE; and
- (B) Inability by SAGE to conform to changes in local, state and federal rules, regulations and laws as provided for in Article III and in paragraph number 13.2 of this MEMORANDUM OF AGREEMENT; and
- (C) Violation by SAGE of any rule, regulation or law to which SAGE is bound or shall be bound under the terms of this MEMORANDUM OF AGREEMENT.

14.3 CITY may terminate this MEMORANDUM OF AGREEMENT for convenience at any time after which SAGE shall be reimbursed a pro rata share of any advance funding provided by SAGE to CITY based upon the value of the services performed under this Agreement as of the effective date of termination.

14.4 The CITY reserves the right to re-assign the designated economic development specialist for any reason and to designate another specialist to perform pursuant to this MEMORANDUM OF AGREEMENT. If for any reason the employment of the designated specialist is terminated, whether voluntarily or involuntarily, then the CITY shall have the option to offer the consulting services of another employee of substantially equal education and experience to continue the performance of duties set forth in this MEMORANDUM OF AGREEMENT, or, alternatively, to terminate this MEMORANDUM OF AGREEMENT for convenience, in which case SAGE shall be entitled to reimbursement of advance funding in accordance with the paragraph number 14.3 above. Upon a decision to terminate this AGREEMENT by CITY, written notice of such, and the effective date thereof, shall be immediately provided to SAGE.

14.5 Upon receipt of notice to terminate, SAGE shall cancel, withdraw, or otherwise terminate any outstanding orders or subcontracts which relate to the performance of this MEMORANDUM OF AGREEMENT. To this effect, CITY shall not be liable to SAGE or SAGE's creditors for any expense, encumbrances or obligations whatsoever incurred after the date of termination.

XV. NOTIFICATION OF ACTION BROUGHT

15.1 In the event that any claim, demand, suit, proceeding, cause of action or other action (hereinafter collectively referred to as "claim") is made or brought against SAGE, SAGE shall give written notice thereof to CITY within two (2) working days after itself being notified. SAGE's notice to CITY shall state the date and hour of notification to SAGE of the claim; the names and addresses of those instituting or threatening to institute the claim, the basis of the claim; and the name(s) of any others against whom the claim is being made or threatened. Written notice pursuant to this Article shall be delivered either personally or by mail in accordance with Article XX of this MEMORANDUM OF AGREEMENT.

XVI. ASSIGNMENTS

16.1 SAGE shall not transfer, pledge or otherwise assign this MEMORANDUM OF AGREEMENT, any interest in and to same, or any claim arising thereunder, without first procuring the written approval of CITY. Any attempt at transfer, pledge or other assignment shall be void *ab initio* and shall confer no rights upon any third person.

XVII. SEVERABILITY OF PROVISIONS

17.1 If any clause or provision of this MEMORANDUM OF AGREEMENT is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not

limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this MEMORANDUM OF AGREEMENT shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this MEMORANDUM OF AGREEMENT that is invalid, illegal, or unenforceable, there be added as a part of the MEMORANDUM OF AGREEMENT a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XVIII. NON-WAIVER OF PERFORMANCE

18.1 No waiver by CITY of a breach of any of the terms, conditions, covenants or guarantees of this MEMORANDUM OF AGREEMENT shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of CITY to insist in any one or more cases upon the strict performance of any of the covenants of this MEMORANDUM OF AGREEMENT, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this MEMORANDUM OF AGREEMENT shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged.

18.2 No act or omission of CITY shall in any manner impair or prejudice any right, power, privilege, or remedy available to CITY hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

18.3 No representative or agent of CITY may waive the effect of the provisions of this Article.

XIX. ENTIRE AGREEMENT

19.1 This MEMORANDUM OF AGREEMENT constitutes the final and entire agreement between the parties hereto and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this MEMORANDUM OF AGREEMENT shall be deemed to exist or to bind the parties hereto unless same is in writing, dated subsequent to the date hereof and duly executed by the parties.

XX. NOTICES

20.1 For purposes of this MEMORANDUM OF AGREEMENT, all official communications and notices among the parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

CITY:

T.C. Broadnax, Assistant City Manager
City Manager's Office
P.O. Box 839966
San Antonio, Texas 78283-3966

SAGE:

CHAIR, BOARD OF DIRECTORS
San Antonio for Growth on the Eastside, Inc.
1630 East Houston Street, Suite B
San Antonio, Texas 78205

Notice of changes of address by either party must be made in writing delivered to the other party's last known address within five (5) business days of such change.

XXI. PARTIES BOUND

21.1 THIS MEMORANDUM OF AGREEMENT shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns, except as otherwise expressly provided herein.

XXII. GENDER

22.1 Words of gender used in this MEMORANDUM OF AGREEMENT shall be held and construed to include the other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XXIII. RELATIONSHIP OF PARTIES

23.1 Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between the parties hereto.

XXIV. VENUE AND GOVERNING LAW

24.1 THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. VENUE FOR ANY LEGAL ACTION, CLAIM OR DISPUTE ARISING DIRECTLY OR INDIRECTLY AS A RESULT OF THIS MEMORANDUM OF AGREEMENT SHALL BE IN BEXAR COUNTY, TEXAS.

24.2 ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

XXV. CAPTIONS

25.1 The captions contained in this MEMORANDUM OF AGREEMENT are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this MEMORANDUM OF AGREEMENT.

EXECUTED this the _____ day of September, 2008.

CITY OF SAN ANTONIO

**SAN ANTONIO FOR GROWTH
ON THE EASTSIDE, INC.**

By: _____
T.C. Broadnax
Title: Assistant City Manager

By: _____
Name:
Title: Board Chair, Board of Directors

APPROVED AS TO FORM ONLY:

Assistant City Attorney

Attachments:

Exhibit "A" Work Statement

Exhibit "A"

Work Statement

1. Expand the Communication Plan to include an Eastside Marketing and Branding Campaign

Branding Considerations:

- District to be dubbed "East Side SA"
- Establish logo and identify graphic
- Tagline: Welcome the Day!
- Development of E. Commerce Street Arts & Entertainment District

Goals and Objectives

- To promote the unique characteristics to shoppers, investors, new businesses and visitors in order to create a positive image and generate activity by capitalizing on the assets of the community
 - Change Attitudes: Focus the community's attention on the commercial corridor's best assets and potential
 - Build a Unified Image: Target a clear, specific market niche with materials and publicity
 - Generate Activity: Reestablish the commercial corridor as a center of community life
 - Communicate progress and excitement
2. In connection with the Strategic Plan goals and objectives, work closely with District 2 and the City of San Antonio on the Ft. Sam Houston Growth Management Plan
 - Actively participate on the BRAC Education Task Force
 - Be a resource for the military base, the superintendents, and the military families
 3. Collaborate with the city's newly created Center City Department to develop an agreement between SAGE and the City of San Antonio to concentrate efforts in the following areas:
 - Celebrate accomplishments and assets on the Eastside
 - Capture on delivering the rezoning efforts of the Arts and Entertainment Districts to address zoning issues
 - Identify and address code compliance issues in the Eastside
 - Active partner and advocate in assisting the City of San Antonio with mixed-use developments and market rate development in the Eastside



CITY OF SAN ANTONIO
Request for Council Action

Agenda Item # 38
Council Meeting Date: 9/18/2008
RFCA Tracking No: R-3895

DEPARTMENT: Housing and Neighborhood Services **DEPARTMENT HEAD:** David D Garza

COUNCIL DISTRICT(S) IMPACTED:
Council District 2

SUBJECT:
Contract Renewal with San Antonio for Growth on the East Side

SUMMARY:

This ordinance authorizes the renewal of a Memorandum of Agreement between the City of San Antonio and San Antonio for Growth on the Eastside (SAGE) for SAGE to provide funding for the services of an economic development specialist to SAGE to facilitate the implementation of its neighborhood commercial revitalization plan and economic development activities in District 2. The Agreement will be effective October 1, 2008 and expire on September 30, 2009.

BACKGROUND INFORMATION:

The City created the Neighborhood Commercial Revitalization Program (NCR) in 1998 to promote the revitalization of neighborhood commercial districts by attracting consumers, private sector investment, and employment opportunities in targeted commercial districts. On April 20, 2006 the San Antonio City Council accepted a contribution in the amount of \$250,000.00 from Zachry Construction Company in an effort to encourage the city to continue to invest in economic development in the eastside of San Antonio. NCR works with community-based non-profit organization such as SAGE, a participant in the NCR Program to accomplish these goals. As part of its participation in the NCR Program, the SAGE Board previously utilized the services of an organizational consultant to develop a Visions and Strategic Plan. The Plan outlined various goals and strategies for the organization to pursue economic development on the eastside of San Antonio. On April 19, 2007 the San Antonio City Council entered into a Funding Agreement with SAGE to allow the organization to continue its efforts outlined in the Plan. On October 4, 2007, City Council entered into a Memorandum of Agreement with SAGE for SAGE to provide funding for the services of an Economic Development Specialist to facilitate the implementation of its neighborhood commercial revitalization plan and economic development activities in District 2.

ISSUE:

Renewal of the Memorandum of Agreement for SAGE to provide funding for the services of an economic development specialist will continue to make possible SAGE's efforts to

encourage economic development on the eastside with the added support provided by the services of the specialist with knowledge in implementation of neighborhood commercial revitalization plans. The economic development specialist will assist the organization in completing the items outlined in the Visioning and Strategic Plan.

Approval of this item is consistent with the mission of the City of San Antonio and with the following economic, neighborhood, and urban design goals and policies of the Master Plan Policies, as adopted in May 1997:

Goal B4: Provide economic opportunities in targeted areas, particularly within Loop 410 and the southern sector.

Policy B4a: Increase coordination and visibility of economic development efforts in targeted areas.

Goal D1: Preserve, protect, and enhance the integrity, economic viability and livability of San Antonio's neighborhoods.

Policy D1c: Encourage business and developers to work with neighborhood residents in the location and design of new development to enhance or complement the character of size of existing neighborhoods.

Goal D5: Encourage development of the downtown area as a complete neighborhood to enhance its image to both visitors and residents.

Goal F1: Preserve and enhance the City's urban design.

Policy F1a: Define, preserve and promote neighborhood centers which include schools, libraries, stores, transit centers and community service facilities in accessible, pedestrian friendly environments.

To implement these goals and policies, the Housing and Neighborhood Services Department will provide staffing and support necessary for enhancing economic development opportunities in the area. This effort is consistent with the following mission statements:

City of San Antonio:

Deliver quality city services and commit to achieve San Antonio's vision of prosperity for our diverse, vibrant, and historic community.

Housing and Neighborhood Services Department:

Strategically enhance the quality of life in San Antonio neighborhoods through the development and delivery of revitalization programs and services leveraged by dynamic partnerships in accordance with the goals of the City Council and the City Manager.

ALTERNATIVES:

The organization could hire another consultant; however the City's economic development specialist is already familiar with the history of the organization and is capable of providing immediate assistance as well as continuing the implementation of the Vision and Strategic Plan.

FISCAL IMPACT:

This agreement will be entered into with the intention of supporting and facilitating the ongoing economic development efforts of the eastside of San Antonio with no demand to the City's general fund.

RECOMMENDATION:

Staff recommends approval of the renewal of the contract with SAGE.

ATTACHMENT(S):

File Description	File Name
Voting Results	
Ordinance/Supplemental Documents	200809180832.pdf

DEPARTMENT HEAD AUTHORIZATIONS:

David D Garza Director Housing and Neighborhood Services

APPROVED FOR COUNCIL CONSIDERATION:

T.C. Broadnax Assistant City Manager