

**CITY OF SAN ANTONIO
INTERDEPARTMENTAL MEMORANDUM
ENVIRONMENTAL SERVICES DEPARTMENT**

TO: Mayor and City Council

FROM: Daniel V. Cárdenas

THROUGH: J. Rolando Bono, Interim City Manager

COPIES: Melissa Byrne Vossmer; Assistant City Manager; Peter Zanoni, Director of Management and Budget; Milo Nitchski, Director of Finance, City Attorney's Office; File

SUBJECT: Ordinance to contribute funds to Keep San Antonio Beautiful, Inc.

DATE: October 21, 2004

SUMMARY AND RECOMMENDATIONS

This Ordinance will authorize the City Manager, or his designee, to enter into a contract with "Keep San Antonio Beautiful, Inc." (KSAB) to provide assistance to the City in conducting neighborhood clean up programs and public education and authorizes payment of \$20,000.00 from the Solid Waste Operating Budget for such services for FY 2004-2005.

Staff recommends approval of this ordinance.

BACKGROUND INFORMATION

In August 1993, KSAB officials approached the Public Works Director requesting that the City provide financial assistance to KSAB. Negotiations ensued, along with an examination of the KSAB budget. A matching program was implemented whereby the City matches gifts from corporate sponsors up to a maximum of \$20,000.00 per year. Further, KSAB was asked to provide assistance in planning, scheduling and coordinating neighborhood clean-ups as well as public outreach and education programs.

On November 10, 1994, City Council authorized the execution of a contract with KSAB to provide services in connection with planning, scheduling and coordinating neighborhood clean up events and public outreach activities in the amount of \$20,000.00. Since that time, this contract has been renewed on an annual basis for the same amount.

Additional funding sources for KSAB operations include grant funds, membership dues, corporate contributions and an annual contribution from Bexar County. The City of San Antonio also provides in-kind services to KSAB in the form of office space, communications support and 50% of an FTE that serves as the Executive Director.

POLICY ANALYSIS

This contract with KSAB is consistent with the City's goal to keep neighborhoods clean and foster community-wide volunteer programs to assist with neighborhood clean up efforts. KSAB will work with the City, and other interested citizen groups to produce a "clean city" environment.

FISCAL IMPACT

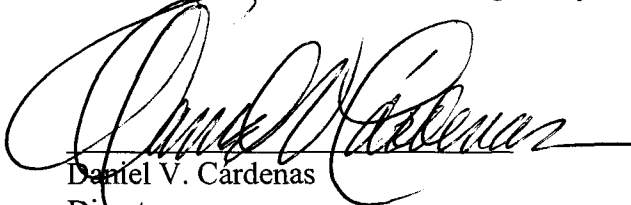
Funds in the amount of \$20,000.00 are authorized payable to Keep San Antonio Beautiful, Inc. from the Environmental Services Department, Solid Waste Operating Fund.

COORDINATION

This request for Ordinance has been coordinated with the Office of Management and Budget and the City Attorney's Office.

SUPPLEMENTARY COMMENTS

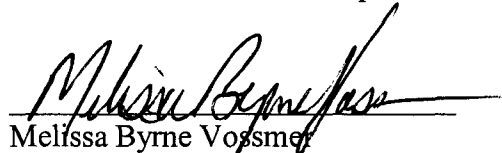
Attached is the KSAB contract signed by Bud Little, KSAB Board President.



Daniel V. Cardenas

Director

Environmental Services Department



Melissa Byrne Vossmer

Assistant City Manager

Approved:



J. Rolando Bono

Interim City Manager

**AGREEMENT BETWEEN
THE CITY OF SAN ANTONIO
AND
KEEP SAN ANTONIO BEAUTIFUL, INC.**

STATE OF TEXAS)

COUNTY OF BEXAR)

This agreement is entered into by and between the CITY OF SAN ANTONIO, a Texas Municipal Corporation (hereinafter referred to as "CITY") acting by and through its City Manager, pursuant to Ordinance No. _____, passed and approved on _____, and Keep San Antonio Beautiful, Inc., a non-profit corporation (hereinafter referred to as "KSAB") acting by and through its President, Art Downey.

WHEREAS, Keep San Antonio Beautiful, Inc. is a non-profit corporation providing services to improve the community environment and aesthetics; and

WHEREAS, KSAB receives donations from various organizations to provide these services; and

WHEREAS, the City of San Antonio has agreed to match gifts from corporate sponsors up to a maximum of \$20,000.00; and

WHEREAS, in exchange for KSAB's assistance in the planning, scheduling and coordinating neighborhood clean-ups and providing community education, CITY has agreed to contribute \$20,000.00;

NOW THEREFORE:

SECTION 1.

The City of San Antonio agrees to appropriate and pay to Keep San Antonio Beautiful, Inc., the amount of twenty-thousand dollars and no cents (\$20,000.00) for their assistance in, including, but not limited to, the planning, scheduling, and coordination of neighborhood clean-ups and providing community education within the San Antonio area such as described in the following:

1. Dial-A-Trailer program to provide a mobile trailer, upon request for special clean-up activities throughout the community;
2. Adopt-A-Spot program which involves neighborhood groups, schools, churches or businesses that have selected a particular area within the community to keep clean;
3. Litter clean-up projects which are scheduled at selected sites in cooperation with the Bexar County Restitution Program;
4. Community awareness and public education programs targeting youth and adults;
5. Special clean-up and environmental protection initiatives using private sector resources.

These services are to be provided for the period from October 1, 2004 through September 30, 2005. In consideration therefore, KSAB agrees to exclusively use said funds for such purpose and for no other purpose. A copy of KSAB's proposed budget for this project is attached hereto and incorporated herein as Attachment I.

SECTION 2.

KSAB and its agents, if any, shall properly, accurately and completely maintain all books, documents, papers, accounting records, and other evidence pertaining to performance hereunder and shall make such materials available at their respective offices at all reasonable times as and as often as CITY may deem necessary, during the period of this agreement for the purpose of accounting and audit inspections by CITY and/or its authorized representatives to audit, examine and make excerpts and/or copies of same.

SECTION 3.

KSAB covenants that neither it nor its agents, employees or anyone under its control, will discriminate against any individual or group on the basis of race, color, sex, age, religion, national origin, or disability in employment practices or while in the performance of rights, duties, and obligations hereunder.

SECTION 4.

CONTRACTOR covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, 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 injury or death and property damage, made upon the CITY, directly or indirectly arising out of, resulting from or related to

Contractor's activities under this CONTRACT, including any acts or omissions of CONTRACTOR, any agent, officer, director, representative, employee, consultant or subcontractor of CONTRACTOR, and their respective officers, agents, employees, directors and representatives while in the exercise or performance of the rights or duties under this CONTRACT, 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 ANY SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSE 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. 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. CONTRACTOR shall promptly advise the CITY in writing of any claim or demand against the CITY or CONTRACTOR known to CONTRACTOR related to or arising out of CONTRACTOR'S activities under this CONTRACT and shall see to the investigation and defense of such claim or demand at CONTRACTOR'S cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONTRACTOR of any of its obligations under this paragraph.

It is the EXPRESS INTENT of the parties to this contract, that the INDEMNITY provided for in this section (Section 4), is an INDEMNITY extended by CONTRACTOR 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 section 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. CONTRACTOR 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 and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

SECTION 5.

Without limiting KSAB's indemnification, it is agreed that KSAB shall obtain and maintain in force and effect for the duration of this agreement, at KSAB's sole expense, insurance coverages written by companies authorized and admitted to do business in the State of Texas and rated A or better by A. M. Best Company and/or otherwise acceptable to CITY, in the following types and amounts:

Liability Insurance

<u>Coverage</u>	<u>Minimum Limits</u>
<u>Commercial General Liability, including:</u>	\$1,000,000 (one million) per occurrence, \$2,000,000 (two million) general aggregate or its equivalent in Umbrella or Excess Liability coverage.

1. Contractual Liability
2. Independent Contractor (if applicable)
3. Fire Legal Liability
4. Broad Form Property Liability
5. Premises/Operations

Worker's Compensation and Employer's Liability

Worker's Compensation	Statutory
Employer's Liability	\$500,000 Limit

Each insurance policy required by this agreement shall contain the following clauses:

- A. "This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to:

City Clerk's Office
P.O. Box 839966
San Antonio, Texas 78283-3966"

- B. "It is agreed that the insurance provided by **KSAB** is primary to any insurance of self-insurance maintained by the **CITY**."
- C. "Each insurance policy required by this agreement, excepting policies for Worker's Compensation, Employer's Liability shall name **CITY** as additional insured."

- D. "Prior to commencement of this agreement, **KSAB** shall deliver to **CITY** insurance certificates confirming the existence of the insurance required by this agreement and including the applicable clauses reference above."
- E. "Nothing herein contained shall be construed as limiting in any way the extent to which **KSAB** may be held responsible for payments of damages to persons or property resulting from **KSAB's** performance under this agreement."
- F. "With regards to Workers' Compensation and Employer's Liability policies, each shall provide for a waiver of subrogation in favor of **CITY**."

SECTION 6.

It is expressly understood and agreed by both parties hereto that each acts independently of each other, and that as such, neither has the authority to bind the other or to hold out to a third party that it has the authority to by the other. The parties hereto understand and agree that **CITY** shall not be liable for any claims which may be asserted by any third party occurring in connection with **KSAB's** performance hereunder.

Nothing contained herein shall be deemed or construed by the parties hereto or by any third party, as creating the relationship of employer-employee, principal-agent, partners, joint ventures, or any other similar such relationships, between the parties hereto.

Any and all of the employees of **KSAB**, wherever located or situated, while engaged in the performance of any work required by this agreement shall be considered employees of **KSAB** only, and not of **CITY**, and any and all claims that may arise on behalf of said employee while so engaged, shall be the sole obligation and responsibility of **KSAB**.

SECTION 7.

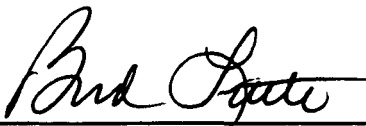
KSAB agrees that it will comply with all applicable local, state and federal laws while in the performance of any rights, duties or obligations under this agreement.

EXECUTED on this the _____ day of _____, 2004.

CITY OF SAN ANTONIO

KEEP SAN ANTONIO BEAUTIFUL, INC.

Terry Brechtel
City Manager



Bud Little
President

APPROVED AS TO FORM: _____
City Attorney

Attachment I

Keep San Antonio Beautiful

PROPOSED BUDGET SUMMARY

FY 2004-2005

PERSONNEL

Salaries	\$16,458.00
FICA	1082.00
Worker's Compensation	0.00
Insurance (Unemployment)	0.00
Retirement	0.00
Other (Health Insurance)	0.00
TOTAL PERSONNEL	\$17,540.00

OPERATIONS

Communications	\$ 0.00
Mail & parcel Post	0.00
Rental of Facilities	0.00
Rental of Equipment	0.00
Official Travel	0.00
Maintenance/Repair: Buildings	0.00
Maintenance/Repair: Machines & Equipment	0.00
Utilities	0.00
Fees to Professional Contractors	0.00
Legal Services	0.00
Automatic Data Processing	0.00
Advertising	0.00
Membership Dues	0.00
Binding, Printing & Reproduction	0.00
Subscriptions to Publications	0.00
Office Supplies	150.00
Mileage	480.00
Photographic Supplies	0.00
Motor Fuel & Lubricants	0.00
Insurance	0.00

Bonding	0.00
Program Supplies	1,830.00
TOTAL OPERATIONS	\$2460.00
TOTAL BUDGET	\$20,000.00