

SOUTH GATE CITY COUNCIL SPECIAL MEETING AGENDA

Wednesday, July 21, 2010 at 6:30 p.m.

**CALL TO ORDER:
ROLL CALL:**

Gregory Martinez, Mayor
Carmen Avalos, City Clerk

MAYOR
Gregory Martinez

CITY CLERK
Carmen Avalos

VICE MAYOR
Maria Davila

CITY TREASURER
Maria Belen Bernal

COUNCIL MEMBERS
Bill De Witt
Gil Hurtado
Henry C. Gonzalez

CITY MANAGER
Ronald Bates

CITY ATTORNEY
Raul F. Salinas

Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office
8650 California Avenue, South Gate, California 90280
(323) 563-9510 * fax (323) 563-5411 * www.cityofsouthgate.org

In compliance with the American with Disabilities Act, if you need special assistance to participate in the City Council Meetings, please contact the Office of the City Clerk. Notification 48 hours prior to the City Council Meeting will enable the City to make reasonable arrangements to assure accessibility.

1. Agreement with AmeriNational Community Services, Inc. for Services

The City Council will consider:


- a. Approving a 3-year agreement (**Contract No. ____**) with AmeriNational Community Services, Inc., to provide timely processing and disbursement of payments in connection with the City's federally funded housing programs; and
- b. Authorizing the Mayor to execute the Agreement in a form approved by the City Attorney; and
- c. Authorizing the Director of Community Development, or his designee, to execute any further documents on behalf of the City as required or necessary to administer the housing programs; and
- d. Allocating \$82,833 of these (HPRP) funds to AmeriNational for benefit payments.

2. Economic Development Workshop

The City Council will consider receiving a presentation on the City's recent economic development efforts and provide direction for future priority areas and projects.

Adjournment

I, Carmen Avalos, City Clerk, certify that a true and correct copy of the foregoing Meeting Agenda was posted on July 20, 2010 at 10:30 a.m., as required by law.


Carmen Avalos, City Clerk

City of South Gate

CITY COUNCIL

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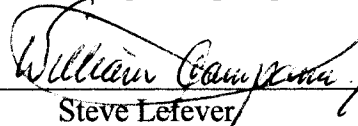
CITY OF SOUTH GATE
OFFICE OF THE CITY MANAGER

AGENDA BILL

For the Special Meeting of: July 21, 2010

Originating Department: Community Development

Department Head:


Steve Lefever

City Manager:


Ronald Bates

**SUBJECT: AGREEMENT WITH AMERINATIONAL COMMUNITY SERVICES, INC.
FOR ESCROW SERVICES**

ACTION:

- a) Approve a 3-year agreement with AmeriNational Community Services, Inc., to provide timely processing and disbursement of payments in connection with the City's federally funded housing programs; and
- b) Authorize the Mayor to execute the Agreement in a form approved by the City Attorney; and
- c) Authorize the Director of Community Development, or his designee, to execute any further documents on behalf of the City as required or necessary to administer the housing programs; and
- d) Allocate \$82,833 of these (HPRP) funds to AmeriNational for benefit payments.

FISCAL IMPACT: There is no impact to the General Fund. \$497,000 was originally appropriated for benefit payments under HPRP for the 2009-10 fiscal year. During this time, \$6,397 was expended, leaving a balance of \$490,603. Of this amount, \$82,833 will be allocated to AmeriNational to fund the benefit payments. In fiscal year 2009-2010, \$17,490 was paid to AmeriNational from CDBG/HOME funds to process and monitor 30 Rehab loans. For the additional program, AmeriNational's fee is \$130 per each nine disbursements made to process, monitor and provide reports to the City, which will be paid from the HPRP stimulus funds. As the HPRP program is brand new, City staff had no basis to determine what the fees would average out to in the upcoming fiscal year.

REPORT SUMMARY: This item was continued from the City Council meeting of July 13, 2010, as the City Council had concerns regarding the vendor being a sole source and questions regarding the term of the agreement. Staff had originally contacted the local HUD office and several surrounding cities to solicit recommendations or a list of possible service agencies. We learned that up until a few months ago there were only two companies who were approved to offer these services. The other company was under contract by the City until 2006, when their contract was terminated. Subsequently, a HUD investigation by the Office of Inspector General (OIG), found the company to be in non-compliance with HUD regulations and as a result the company is no longer in service. In addition, the City's HUD representative advised that due to the short tenure of this program,

AmeriNational was the only approved agency that was able to handle the disbursements and detailed reports of balances and activities needed by the project and customers. Due to the specialized nature of this firm, staff recommends that we enter into a three (3) year agreement and perform an RFP for services at the end of this term.

City Staff is currently performing similar benefit/financial services related to the City's First Time Homebuyer Program. These efforts are tedious and very labor intensive. AmeriNational is also performing the benefit/financial services for the HUD funded Homeowner Rehabilitation Program for the City.

To improve staff efficiencies, reduce workload and duplicative efforts, the action recommended in this report includes a proposal to add/combine the financial processing and disbursement activities related to the Homeowner Rehabilitation Program with that of the First Time Homebuyer Program and HPRP.

ATTACHMENTS: Proposed Agreement

**SERVICE AGREEMENT BY AND BETWEEN
THE CITY OF SOUTH GATE
AND
AMERINATIONAL COMMUNITY SERVICES**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made and entered into as of the _____ day of _____, 2010, by and between the City of South Gate, a municipal corporation, hereinafter referred to as the "City" and AmeriNational Community Services, Inc., a corporation organized and existing under the laws of the State of Minnesota, at 217 South Newton Ave., Albert Lea, MN 56007, hereinafter referred to as the "Contractor".

WITNESSETH

WHEREAS, AmeriNational Community Services, Inc., formerly known as U.S.E. Community Services Group, has filed amendments to its Articles of Incorporation for the current name change on June 20, 2001; and

WHEREAS, the City desires that this Agreement shall replace and supersede the Service Agreement dated March 27, 2001 with then U.S.E. Community Services Group; and

WHEREAS, the City receives funds to provide direct loans to low and moderate income homeowners for housing and rehabilitation projects, and has received Federal funds to administer the Homelessness Prevention and Rapid Re-housing Program; and

WHEREAS, the City desires to engage Contractor to render services in connection with projects implemented by the City; and

WHEREAS, Contractor represents that it is qualified to perform services under this Agreement through its parent company, American Bank of St. Paul; and

WHEREAS, Contractor is willing to render professional services, as hereinafter defined, on the following terms and conditions.

NOW, THEREFORE, in consideration of the warranties, covenants and commitments herein contained, the parties mutually agree as follows:

I. SCOPE OF SERVICES

When and as requested in writing by the City, the Contractor shall provide professional services related to and in furtherance of the provision and or preservation of affordable housing, and shall make disbursements directly to payees or to individual project

accounts. Services shall include those specifically set forth in the Scope of Services attached as Exhibit A.

II. FEE SCHEDULE

In return for the services provided by the Contractor, the City shall pay fees to the Contractor according to the Fee Schedule attached as Exhibit B.

III. ADDITIONAL SERVICES

In the event the City requests additional services to be performed by Contractor not specifically set forth in the Scope of Services and Contractor agrees to perform the requested additional service(s), Contractor shall undertake such services(s) only upon receiving written authorization from the City. Additional compensation for such service(s) shall be allowed as agreed upon in writing signed by both the City and Contractor.

IV. ADDITIONAL TERMS

A. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, the Contractor agrees as follows:

1. Contractor shall not discriminate against any employee who is employed in the work covered by this Agreement, or against any applicant for such employment, because of race, color, religion, sex, sexual orientation, age, national origin, ancestry, marital status, family care leave or leave for an employee's own serious health condition, medical condition (cancer or genetic characteristics, or physical disability (including AIDS) or mental handicap unrelated in nature and extent so as to reasonably preclude the performance of such work. This provision shall include, but not be limited to, the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
2. Contractor shall include a similar provision in all subcontracts for services covered by this Agreement and shall post and cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

B. REPRESENTATION

Contractor represents that it has, and shall continue to have, adequate and proper facilities and personnel to perform the services contained in this Agreement; that it is duly authorized and qualified by law to enter into this Agreement and perform such services. Contractor warrants that it shall faithfully and diligently perform the services herein, and shall employ, as a minimum, generally accepted standards and

practices employed by other professional services organizations or persons engaged in providing similar services in existence at the time of performance of its obligations herein. At all times hereunder, Contractor represents and covenants that it shall comply with all applicable laws and regulations concerning the services it has agreed to perform pursuant to the terms of this Agreement.

Contractor shall provide the City with a point of contact at the local office (i.e. Downey, California). This person shall be able to provide the necessary information to the City to ensure timely processing and response to questions.

C. INDEMNIFICATION

1. Contractor agrees to indemnify, hold harmless and defend (with counsel selected by the City) the City, and their respective elected officials, employees, representatives, agents, successors and assigns (individually and collectively, "Indemnitees") from and against any and all losses, damages, costs and expenses, including, without limitation, reasonable attorneys' fees and costs, incurred by Indemnitees in connection with a breach by Contractor of any of the covenants, agreements, representations or warranties contained herein, or the negligence or willful misconduct of Contractor, or any of its employees, subcontractors or agents.

D. INDEPENDENT CONTRACTOR

Nothing contained in this Agreement shall be deemed or construed in any manner to create a co-partnership or joint venture relationship between Contractor and the City. The duties and responsibilities of Contractor shall be rendered as an independent contractor and not as an agent, representative, or employee of the City, and Contractor shall have full control of all its acts, doings, and proceedings relating to or requisite in connection with the discharge of its duties and responsibilities under this Agreement. Furthermore, this Agreement is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between City and Contractor. The employees and agents of one party are not the employees or agents of the other party for any purpose whatsoever. The Contractor and its employees are independent contractors and are not employees of the City.

The Contractor shall be solely liable and responsible for providing all compensation and benefits to, or on behalf of, all persons performing work pursuant to this Agreement. The City shall have no liability or responsibility for the payment of any salaries, wages, unemployment benefits, Federal, State, or local taxes, or other compensation, benefits, or taxes for any personnel provided by or on behalf of Contractor. The Contractor understands and agrees that all persons performing work pursuant to this Agreement are, for purposes of worker's compensation liability, solely employees of Contractor and not employees of the City. The Contractor shall be solely liable and responsible for furnishing any and all worker's compensation

benefits to any person as a result of any injuries arising from or connected with any work performed by or on behalf of Contractor hereunder. The Contractor shall agree to indemnify, defend with counsel selected by the City, and hold the City and Indemnitees harmless from any action or proceeding regarding Contractor's employee or agent's independent Contractor status.

E. ASSIGNMENT OF AGREEMENT

Contractor shall not assign any of its rights or obligations under this Agreement without the prior express written consent of the City, which such consent may be withheld by the City in its sole and absolute discretion.

F. INSURANCE

1. Requirements: Contractor shall have and maintain in full force and effect for the duration of this Agreement, insurance insuring against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by Contractor, its agents, representatives, employees or subcontractors. Such insurance policies shall name the City and Indemnitees as additional insureds.
2. Limits of Insurance: Contractor shall maintain limits no less than:
 - a. Comprehensive General Liability of \$1,000,000 combined single limit per occurrence for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.
 - b. Comprehensive Automobile Liability (owned, non-owned, hired) of \$1,000,000 combined single limit per occurrence for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.
 - c. Professional Liability of \$1,000,000 limit for claims arising out of professional services caused by the Contractor's errors, omissions, or negligent acts.
 - d. Workers' Compensation limits as required by the Labor Code of the State of California and Employers Liability limits of \$500,000 per accident.
3. Acceptability of Insurers: Insurance is to be placed with insurers with an A.M. Best rating of no less than A:VII.
4. Verification of Coverage: Contractor shall furnish the City with certificates of insurance to the policies evidencing coverage required by this clause prior to the start of work. The certificates of insurance for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The

certificate of insurance shall be on a form utilized by Contractor's insurer in its normal course of business and shall be received and approved by the City prior to execution of this Agreement by the City. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

5. Subcontractors: Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming the parties as additional insureds.

G. RECORD KEEPING AND REPORTING. Contractor shall maintain true and accurate books, records, papers, or other documents relevant to the performance of its duties under this Agreement, and upon written request from the City shall allow the City to inspect, audit, copy, or abstract, any and all of such books, records, papers, or other documents at the City's offices or such other location as the City may designate. Contractor may maintain the required books, records, paper, and other documents in electronic form. Contractor shall use generally accepted accounting principles in the maintenance of such books and records and shall retain all of such books, records, and documents for a period of five (5) years from the date of termination of this Agreement.

However, all previous files and correspondence that are maintained at the Contractor's office from the prior agreement shall rollover and continue to be maintained under this new Agreement.

H. NON-COLLUSION. Contractor covenants and declares that it has not employed any person to solicit or procure this Agreement and that Contractor has not made, and will not make, any payment of any compensation for the procurement of this Agreement. The covenant contained herein shall survive the expiration or earlier termination of this Agreement.

I. CONFLICT OF INTEREST. Contractor, for itself and on behalf of its directors, officers, employees, shareholders, subcontractors, successors and assigns, covenants and declares that it has not, and will not, acquire any interest, directly or indirectly, in any property acquired by the City during the term of this Agreement. Contractor warrants and covenants that it presently has no interest in, nor shall any interest be hereinafter acquired in, any matter that will render the services required under this Agreement a violation of any applicable Federal, State or local law. In the event that any conflict of interest should hereinafter arise, Contractor shall promptly notify the City in writing of the existence of such conflict of interest.

J. CONFIDENTIALITY. Contractor agrees that such reports, information, opinions or conclusions shall not be made available to or discussed with any individual or organization, including the news media, without prior written approval of the City. Contractor shall exercise reasonable precautions to prevent the unauthorized disclosure and use of the City information whether deemed confidential or not.

K. OWNERSHIP OF WORK. All reports, designs, drawings, plans, specifications, schedules, work product and other materials prepared or in the process of being prepared for the services to be performed by Contractor shall be and are the property of the City and the City upon demand shall be entitled to full access and copies of all such materials.

L. TERM AND TERMINATION.

1. This Agreement supersedes and cancels all prior contracts or agreements for services between the City and Contractor.
2. The term of this Agreement shall commence upon execution of this Agreement by both parties and shall continue for three years thereafter (the "Expiration Date") upon which the rights and responsibilities of the parties hereunder will expire, unless the parties agree in writing not less than sixty (60) days before the Expiration Date to extend the term of this Agreement upon the same terms and conditions. Any and all revisions to this Agreement must be mutually agreed upon in writing and signed by both parties.
3. Irrespective of any default hereunder, either party may also, at any time in their discretion, terminate this Agreement, in whole or in part, by giving the other party one hundred twenty (120) days written notice thereof and in such event, Contractor shall be entitled to receive compensation specified herein for all work completed prior to such one hundred twenty (120) days notice of termination or cancellation, delivered or not yet delivered to the City. Contractor shall also be entitled to compensation in accordance with the Fee Schedule in Exhibit B for all subsequent work requested by the City and delivered by Contractor, after notice of termination. For any work partially completed at the date of termination, such work will be compensated on a prorated basis, as mutually agreed upon. The parties agree that any controversy or claim arising out of or relating to this Agreement shall be submitted to JAMS, or its successor, for mediation, and if the matter is not resolved through mediation, then it shall be submitted to JAMS, or its successor, for final and binding arbitration.

M. CHOICE OF LAW AND VENUE. All matters, whether sounding in tort or in contract, relating to the validity, construction, performance, or enforcement of this Agreement shall be controlled by and determined in accordance with the laws of the State of California without regard to conflicts of law principles. The prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which said party may be entitled.

- N. MODIFICATIONS.** No waiver or modification of any language contained in this Agreement shall be valid unless in writing and duly executed by both parties.
- O. SEVERABILITY.** Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the parties.
- P. DUPLICATE ORIGINAL.** The original of this Agreement and one or more copies hereto have been prepared and signed in counterparts as duplicate originals, each of which so executed shall irrespective of the date of its execution and delivery, be deemed an original. Each duplicate original shall be deemed an original instrument as against any party who has signed it.
- Q. NOTICES.** All notices or communications under this Agreement shall be in writing and shall be deemed delivered as follows: on the date of delivery if received in person or via facsimile (if received prior to 5:00 p.m., <Pacific> time; or if delivered after 5:00 p.m., it shall be deemed delivered on the following business day); on the next day, if delivered by a nationally recognized overnight courier (such as UPS or FedEx); five (5) days after the date of mailing, if sent by certified first class U.S. mail, return receipt requested and postage prepaid, at the address of the respective parties below, or such other address as may be given to the other party in writing::

A. If to Contractor:

AmeriNational Community Services and American Bank
217 S. Newton Ave.
Albert Lea, MN 56007
Facsimile: (507) 377-0838
Attn: Amber Amundson, Marketing & Contracts Manager

B. If to the City:

City of South Gate
8650 California Avenue
South Gate, CA 90280-3075
Facsimile: (323) 567-0725
Attn: Vivian M. Garcia, Housing Administrator

- R. WAIVER.** No waiver by either party of any covenant or condition of this Agreement shall be valid unless in writing and signed by the party so waiving. Neither the failure by either party in any one or more instances to insist upon the complete and total observance or performance of any term or provision herein, nor