

BILL NO. S-19-02-33

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving the awarding of the 2019 CONTRACT FOR PROFESSIONAL ECONOMIC DEVELOPMENT SERVICES between ECONOMIC IMPROVEMENT DISTRICT FOR THE DOWNTOWN AREA OF THE CITY OF FORT WAYNE - dba - "DOWNTOWN IMPROVEMENT DISTRICT ("DID")" and the City of Fort Wayne, Indiana.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the 2019 CONTRACT FOR PROFESSIONAL ECONOMIC DEVELOPMENT SERVICES by and between ECONOMIC IMPROVEMENT DISTRICT FOR THE DOWNTOWN AREA OF THE CITY OF FORT WAYNE - dba - "DOWNTOWN IMPROVEMENT DISTRICT ("DID")" and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

Professional management, communications, marketing, business and real estate development services regarding economic development activities for Downtown Fort Wayne, Indiana in 2019;

Involving a total cost of ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS - (\$150,000.00). A copy of said Contract is on file with the Office of the City Clerk and made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Member of Council

APPROVED AS TO FORM A LEGALITY

Carol Helton, City Attorney

**CONTRACT FOR PROFESSIONAL ECONOMIC DEVELOPMENT SERVICES
BY AND BETWEEN CITY OF FORT
WAYNE, INDIANA AND THE
THE ECONOMIC IMPROVEMENT DISTRICT FOR THE DOWNTOWN AREA OF
THE CITY OF FORT WAYNE**

THIS CONTRACT is entered into as of the _____ day of _____ 2019, by and between the City of Fort Wayne, Indiana ("City") and the Economic Improvement District for the Downtown Area of the City of Fort Wayne - dba "Downtown Improvement District" ("DID").

WHEREAS, the City desires to engage in certain activities necessary for development of the downtown economic base of Fort Wayne, Indiana; and

WHEREAS, the City has a need for professional management, communications, marketing, and business and real estate development services with regard to economic development activities for Downtown Fort Wayne, Indiana; and

WHEREAS, the Downtown area of the City of Fort Wayne represents the City's largest single aggregation of commercial activities, and further encompasses and constitutes the City's cultural, historic, financial, judicial, and administrative center; and

WHEREAS, the Economic Improvement District for the Downtown Area of the City of Fort Wayne is organized under Indiana Code 36-7-22 as an Economic Improvement District, for the purposes of planning and managing development or improvement activities; designing, landscaping, beautifying, and maintaining public areas or public ways; promoting commercial activity or public events; and supporting business recruitment and development, among other activities; and

WHEREAS, the City desires to engage the Fort Wayne Downtown Improvement District, Inc. to render assistance in connection with such undertakings;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

A. Scope of Services. The DID shall perform at least one thousand forty (1,040) hours of direct management, communications, marketing, beautification, maintenance, and business and real estate development services with regard to economic development activities- as more particularly described in that certain 2019 DID Business Plan---per calendar year under this contract in a satisfactory and proper manner (the "Direct Business Services").

B. Time of Performance. The Direct Business Services will be retroactive to January 1, 2019 and shall be completed in a timely manner as required by the City, but shall not extend beyond December 31, 2019.

C. Compensation. The City and the DID hereby agree that the fees paid to the DID will be a fixed amount of One Hundred Thousand Dollars (\$100,000) and shall be paid to the DID for the Direct Business Services. Said amounts shall be paid in four (4) equal quarterly installments of Twenty-Five

Thousand Dollars (\$25,000), the first of which will be due on March 31, 2019, and continuing on June 30, 2019, September 30, 2019 and December 31, 2019. The DID shall invoice the City for Direct Business Services already provided. Said invoice shall describe the activities and Direct Business Services performed by the DID.

D. Capital Improvements Fund. In addition, the City and the DID hereby agree that a sum of \$50,000 shall be paid to the DID with the first installment in Section C (Compensation), to be held by the DID for expenditure on capital improvements to benefit the Downtown Economic Improvement District, including but not limited to street furnishings; trash and recycling containers; banners; and necessary equipment to maintain these improvements and to carry out the Scope of Services as described in Section A above. The City and DID agree that while it is the intent of both parties to fully expend this sum during 2019, such amounts not spent on capital items and equipment will carry over for expenditure on the same terms as 2019, and for the same specified purposes, in 2020. Any balance under this Section not expended by 12/31/2020 will be returned to the City.

The DID shall include with each quarterly invoice, beginning with the second quarterly invoice, a Capital Improvement Fund Report detailing the expenditures made, and balance remaining in the fund. Failure to furnish the required documentation may, at the sole discretion of the City, constitute an Event of Default under the terms of this Agreement.

In the Event of Default under this Agreement, the Company shall repay the City the balance of the fund as of the most recent quarterly report submitted.

E. Changes. The City may, from time to time, request changes in the Scope of Services to be performed hereunder by the DID. Such changes, including any increase or decrease in the amount of the DID's compensation, if mutually agreed upon by the City and the DID, shall be incorporated in written addenda to this Contract. The DID may request a change in the maximum amount payable by the City in the event that said maximum amount does not provide just compensation for the Direct Business Services provided hereunder. The City may request a decrease in the amount payable hereunder in the event that the DID does not adequately perform the Direct Business Services hereunder. However, in no event may the DID request a compensation adjustment due to variances between the DID's estimated and actual cost of providing the Direct Business Services that the City has contracted for hereunder. The parties agree to negotiate in good faith any such adjustment.

F. Personnel. The DID represents that it will be responsible for performance of the Direct Business Services. All Direct Business Services required hereunder will be performed by the DID or its agents and all individuals engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such Direct Business Services.

G. DID Records Maintenance. The DID shall maintain accounts and records, including

personnel and financial records, adequate to identify and account for all costs pertaining to this contract and such other records as may be deemed necessary to assure proper accounting for all project funds.

H: Compliance with Local Law. The DID shall comply with all applicable laws, ordinances, and codes of the State and Local governments.

1. The DID Board certifies that in accordance with the reauthorization of the "Economic Improvement District of the City of Fort Wayne" by Special Ordinance No. S-66-15, on July 28th, 2015, as amended, and likewise pursuant to the requirements of IC 36-7-22-11, and the By-Laws governing the nomination of directors, the 2019 Board will consist of fifteen (15) members and that the majority of these members will be property owners within the District.

I: Independent. By contracting with the DID for the Direct Business Services hereunder, the City is not delegating any of its economic development decision-making authority and will continue maintaining economic development services as incumbent upon public entities. The DID is an entity wholly independent from the City and is serving as an independent contractor under this Contract.

IN WITNESS WHEREOF, the City and the DID have executed this Contract as of the date first above written.

Cindy Joyner, Director
City of Fort Wayne
Division of Community Development

Bill Brown, President
Downtown Improvement District

DIGEST SHEET

TITLE OF RESOLUTION. Ordinance Approving the Awarding of the 2019 Contract for Economic Development Services by and between the Economic Improvement District for the Downtown Area of the City of Fort Wayne dba – "Downtown Improvement District" (DID) and the City of Fort Wayne, Indiana, by and through Division of Community Development

DEPARTMENT REQUESTING RESOLUTION. Community Development Division

SYNOPSIS OF RESOLUTION. Ordinance approves awarding the 2019 contract for economic development services between the City of Fort Wayne and the Downtown Improvement District

EFFECT OF PASSAGE. Continue the provision of economic development services provided by the Downtown Improvement District

EFFECT OF NON-PASSAGE. Potential loss of economic development services

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS).

ASSIGNED TO COMMITTEE (PRESIDENT). _____

To: Common Council
Introduced February 26, 2019

From: Cindy Joyner, Division Director
Community Development

Date: February 26, 2019

Re: Economic Improvement District for the Downtown Area for the City of Fort Wayne (Downtown Improvement District)

In the 2019 CEDIT Plan, Council approved \$100,000 for direct business services and \$50,000 for capital improvement projects for Downtown Fort Wayne. The attached contract for the Downtown Improvement District will be used for marketing, business and real estate development services regarding economic development activities described in the DID's 2019 Action Plan and capital improvement projects within the District.

We request that you approve the 2019 contract. Thank you for your attention to this important matter.

**CONTRACT FOR PROFESSIONAL ECONOMIC DEVELOPMENT SERVICES
BY AND BETWEEN CITY OF FORT
WAYNE, INDIANA AND THE
THE ECONOMIC IMPROVEMENT DISTRICT FOR THE DOWNTOWN AREA OF
THE CITY OF FORT WAYNE**

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WHEREAS, the City has a need for professional management, communications, marketing, and business and real estate development services with regard to economic development activities for Downtown Fort Wayne, Indiana; and

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B. **Time of Performance.** The Direct Business Services will be retroactive to January 1, 2019 and shall be completed in a timely manner as required by the City, but shall not extend beyond December 31, 2019.

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E. Changes. The City may, from time to time, request changes in the Scope of Services to be performed hereunder by the DID. Such changes, including any increase or decrease in the amount of the DID's compensation, if mutually agreed upon by the City and the DID, shall be incorporated in written addenda to this Contract. The DID may request a change in the maximum amount payable by the City in the event that said maximum amount does not provide just compensation for the Direct Business Services provided hereunder. The City may request a decrease in the amount payable hereunder in the event that the DID does not adequately perform the Direct Business Services hereunder. However, in no event may the DID request a compensation adjustment due to variances between the DID's estimated and actual cost of providing the Direct Business Services that the City has contracted for hereunder. The parties agree to negotiate in good faith any such adjustment.

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J: Advocacy. Advancing Downtown Fort Wayne as the vibrant, urban core of northeast Indiana is the mission of DID. DID and its employees will not engage in advocacy for candidates running for municipal office while in their official capacity. DID employees will conduct themselves in a professional and ethical manner while performing their duties under this contract. This provision does not supersede or infringe on the constitutional rights of the employees of DID.

IN WITNESS WHEREOF, the City and the DID have executed this Contract as of the date first above written.

Cindy Joyner, Director
City of Fort Wayne
Division of Community Development

Bill Brown, President
Downtown Improvement District