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**BILL NO. S-12-03-08 (AS AMENDED)**

SPECIAL ORDINANCE NO. S-34-12

AN ORDINANCE approving 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 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 2012;

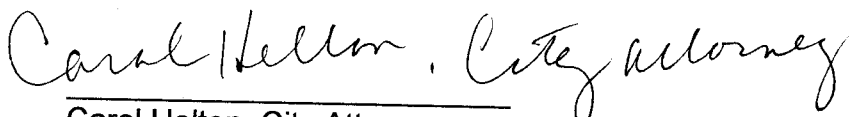
involving a total cost of ONE HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS - (\$150,000.00). A copy said Contract is on file with the Office of the City Clerk and made available for public inspection, according to law.

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**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.

  
\_\_\_\_\_  
Council Member

APPROVED AS TO FORM AND LEGALITY

  
\_\_\_\_\_  
Carol Helton, City Attorney  
*by LES*

Read the first time in full and on motion by Harper, and duly adopted, read the second time by title and referred to the Committee on Finance, (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at Room 030 - Council Discussion Garden Level - Citizens Square, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 2012, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATED: 3-13-12

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Harper, and duly adopted, placed on its passage. PASSED LOST  
by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>8</u>	_____	_____	<u>1</u>
<u>BENDER</u>	<u>✓</u>	_____	_____	_____
<u>CRAWFORD</u>	_____	_____	_____	<u>✓</u>
<u>DIDIER</u>	<u>✓</u>	_____	_____	_____
<u>HARPER</u>	<u>✓</u>	_____	_____	_____
<u>HINES</u>	<u>✓</u>	_____	_____	_____
<u>JEHL</u>	<u>✓</u>	_____	_____	_____
<u>PADDOCK</u>	<u>✓</u>	_____	_____	_____
<u>SHOAFF</u>	<u>✓</u>	_____	_____	_____
<u>SMITH</u>	<u>✓</u>	_____	_____	_____

DATED: 3-27-12

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE (RESOLUTION) NO. 8-34-12 on the 27th day of March, 2012

ATTEST:  
Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

SEAL  
[Signature]  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 29th day of March, 2012, at the hour of 10:00 o'clock A M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 29<sup>th</sup> day of MARCH, 2012, at the hour of 12:00 o'clock P M., E.S.T.

Thomas C. Henry  
THOMAS C. HENRY, MAYOR

**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 22 day of March, 2012, 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 2012 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, 2012 and shall be completed in a timely manner as required by the City, but shall not extend beyond December 31, 2012

**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, 2012, and continuing on June 30, 2012, September 30, 2012 and December 31, 2012. 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 2012, such amounts not spent on capital items and equipment will carry over for expenditure on the same terms as 2012, and for the same specified purposes, in 2013. Any balance under this Section not expended by 12/31/2013 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 Resolution R-08-06, on January 10, 2006, as amended, and likewise pursuant to the requirements of IC 36-7-22-11, and the By-Laws governing the nomination of directors, the 2012 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.

**CITY OF FORT WAYNE**

By: \_\_\_\_\_

John Urbahns, Director – Community  
Development

**FORT WAYNE – DOWNTOWN IMPROVEMENT  
DISTRICT**

By: \_\_\_\_\_

Richard Davis, President – Downtown  
Improvement District