



**Date:** May 21, 2013

**To:** Thomas J. Bonfield, City Manager  
**Through:** Keith Chadwell, Deputy City Manager  
**From:** Kevin Dick, Director – Office of Economic and Workforce Development  
**Subject:** Contract for City Services and Programs for the Downtown Durham Municipal Service District – FY2014

**Executive Summary**

This item recommends the approval of a contract between the City of Durham and Downtown Durham, Inc. for City Services and Programs for The Downtown Durham Municipal Service District for FY2014.

**Recommendation**

The Office of Economic and Workforce Development recommends the City Council to authorize the City Manager to execute a contract with Downtown Durham, Inc. to provide services within the Downtown Durham Municipal Service District (“MSD”) in an amount not to exceed \$583,192.00 for FY 2014, subject to City Council budget authorization.

**Background**

The City found a need for specialized services and programs within the BID, which comprises the downtown area and has experienced a marked increase in pedestrian intensity and activity due to various economic development efforts. Multiple public and private amenities would benefit from the specialized services and programs within the BID, which amenities include, but are not limited to, the Durham Performing Arts Center (DPAC), the Carolina Theater, the Durham Bulls Athletic Park, CCB Plaza, the Downtown Durham Marriott and Convention Center, West Village, American Tobacco Campus, Brightleaf Square, Golden Belt, Central Park and the numerous businesses and restaurants throughout the BID. The BID will receive an increase in street-level, appearance-related services, such as frequent sidewalk cleaning, and pressure-washing; street level hospitality services to direct people to key downtown sites and services while acting as safety eyes-and-ears within the BID District; increased directed marketing and promotion of downtown attractions within the BID; concentrated special event services; and concentrated economic development programs that build upon the momentum of existing development and leads to job creation, tax base growth and more downtown activity. Beginning on July 1, 2012 to June 30, 2013, the City entered into a contract with Downtown Durham, Inc. to provide the aforementioned services by a third party contractor.

**Issues and Analysis**

**Termination for Convenience Provisions**

The contract allows the parties to terminate this Contract for convenience (TFC) by giving the other party sufficient advanced written notice. If the City elects to terminate early or to not renew for a 3<sup>rd</sup> year, the City will need to repay DDI for the amortization of equipment in

addition to costs associated with early termination. By DDI entering into a contract with a subcontractor to perform clean and safe services, it has been necessary to purchase certain equipment to perform the scope of the contract. TFC payment(s) to the Contractor may include the costs and charges related to reasonable equipment amortization obligations to DDI's subcontractor. Pursuant to the terms of the contract, payment for reasonable equipment amortization obligations will not exceed:

- (i) \$43,333, if the City renews the Contract for one additional one-year term and terminates the contract during such renewal term; or
- (ii) \$21,667, if the City renews the contract for a second one-year term and terminates the contract during such second renewal term.

### **Enhanced Economic Development and Marketing**

Per the requirements of the Municipal Service District Act of 1973 (the "Act") contained in Article 23 of Chapter 160A of the North Carolina General Statutes the activities performed by DDI reflect the following need: The need for enhanced services that will make downtown more attractive for economic development and the visitor attraction.

DDI will provide additional and enhanced economic development and marketing activities above and beyond their current activities not limited to the following:

- (i) Updating and expanding current economic development recruitment materials for businesses, developers, residents and other investors
- (ii) Providing opportunities to educate residential & commercial realtors about downtown through realtor events and increased marketing efforts as needed
- (iii) Expand and improve electronic marketing, such as web presence, social media, mobile applications, and other electronic media
- (iv) Strengthen Downtown "Find Your Cool" brand in order to better recruit companies, businesses, residents, and visitors by printing more t-shirts, more marketing of events than what occurred in FY14 and/or advertising in more publications than what occurred in FY14
- (v) Increase marketing of Downtown Durham as an entrepreneurial hub to recruit and retain startups by sustaining efforts such as the successful Startup Stampede and the Smoffice Concept.

### **Amending BID Services Contract**

The contract stipulates that the parties agree to negotiated amendments to the contract to address any substantive differences in actual BID tax revenues compared to estimated BID tax revenues. Pursuant to Section 3.0 of the contract, the City Manager has the authority to make any amendments to the contract as a result of such substantive differences in actual versus estimated BID tax revenues. The City will keep contractor informed of BID tax revenues actually collected and if it appears that BID tax revenues collected during the term of the contract will result in an overage, the City will meet with Contractor to discuss the impact of such overage on the Contract, if any.

### Payment Terms

The term of the contract is for one year according to the City's fiscal calendar, beginning on July 1, 2013 to June 30, 2014 and at the discretion of the City Manager, the City has the option to renew the contract for two (2) additional one (1) year terms with an amendment extending the term for each additional fiscal year the City Council approves the appropriate funds for the BID services covered under the contract. The effective date for each renewal will be July 1, unless stated differently in the renewal amendment.

Under the contract, the City payments to DDI for each category of BID services for the fiscal year according to the categories identified in Exhibit A (of the contract), titled "BID Services Budget for FY-2014." The annual fiscal payment to Contractor for the BID services is as follows:

<u>CATEGORY OF SERVICE</u>	<u>ESTIMATED ANNUAL BUDGET</u>
BID Services Budget	\$583,192.00

Due to a decrease in BID tax revenue from the original estimates, the scope of BID services has been proportionally reduced. Clean and safe services and economic development, marketing and promotions are decreased by \$61,128.00.00 and \$18,421.00 respectively. The special events administration at CCB Plaza has been increased by \$1,661.00 and a new category, administrative line items share of DDI budget, is added for \$31,080.00.

DDI must submit a detailed quarterly report of program activities and accomplishments associated with the expenditure of City Funds to the City's Office of Economic and Workforce Development.

### Alternatives

The City Council could vote not to authorize execution of this contract with Downtown Durham, Inc. to perform the scope of services for the Contract for City Services and Programs for the Downtown Durham Municipal Service District – FY2013. Downtown would then not have an organization to provide BID services and the City of Durham would need to find some other means of providing enhanced services within the BID, if the special BID tax is levied against property owners within the BID.

### Financial Impact

Funding would come from the following sources:

General Fund	\$250,000
<u>BID Property Tax Revenue</u>	<u>\$333,192</u>
<b>Total Estimated Revenue funding</b>	<b>\$583,192</b>

Revenues from the aforementioned would pay for the enhanced services mentioned in the contract. The BID contract will be accounted for in a separate special revenue fund.

### SDBE Summary

The Department of Equal Opportunity/Equity Assurance did not review this item for compliance with the Ordinance to Promote Equal Business Opportunity in City Contracting.

**Attachments**

- Contract for City Services And Programs For The Downtown Durham Municipal Service District – FY2014, containing 17 pages
- Exhibit A - “Scope of BID Services”, containing 4 pages
- Exhibit B - “BID District Services Budget for FY-2014”, containing 1 page