

MAIN STREET PROGRAM SERVICE CONTRACT

STATE OF GEORGIA  
COUNTY OF NEWTON

This agreement ("Agreement") made and entered into effective as of \_\_\_\_\_, 2014 by and between the Covington-Newton County Chamber of Commerce, Inc., a Georgia non-profit corporation ("Chamber") and the City of Covington, a Georgia municipal corporation ("City").

WHEREAS, the City, as evidence by the Community Agenda component of the City's 2008-2028 Comprehensive Plan, supports having a vital Main Street program (the "Covington Main Street Program") as a component of the City's economic development strategy;

WHEREAS, the City finds that the Covington Main Street Program is an important component of the City's efforts to promote tourism;

WHEREAS, the City has certain obligations to the Georgia Department of Community Affairs' Office of Downtown Development ("DCA") to insure that the Covington Main Street Program is actively operated in accordance with DCA requirements;

WHEREAS, the City levies and collects certain taxes upon public accommodations within the City in accordance with O.C.G.A. § 48-13-51 ("Hotel/Motel Tax Revenues") to promote tourism within the City;

WHEREAS the Chamber is a qualified designee for receipt of certain Hotel/Motel Tax Revenues as both a private sector non-profit organization and a destination marketing organization as those terms are defined by O.C.G.A. § 48-13-50.2;

WHEREAS, the City is desirous of designating the Chamber as the recipient of certain Hotel/Motel Tax Revenues and contracting with the Chamber, as condition of such designation, to operate the Covington Main Street Program upon the terms and conditions contained herein and

WHEREAS, the Chamber is desirous of evidencing and acknowledging its agreement to accept the designation as the recipient of certain Hotel/Motel Tax Revenues and of contracting with the City to operate the Covington Main Street Program upon the terms and conditions contained herein.

NOW THEREFORE, in consideration of the premises and the mutual covenants and undertakings hereinafter set forth, the parties hereto do hereby agree as follows:

1. Duties of Chamber. Throughout the term of this Agreement, and thereafter as expressly stated herein, and except to the extent of any DCA rule or regulation expressly to the contrary, the Chamber agrees to:

a. Assume and timely and fully fulfill all obligations to DCA of a Main Street designated sponsoring organization in accordance with all binding DCA rules and regulations and as more specifically set forth as the obligations of "Community" as defined in that certain Georgia Main Street Program Memorandum of Understanding executed by City on January \_\_\_\_, 2014, a copy of which is attached hereto at Exhibit "A" and incorporated herein by reference (as now or hereafter amended or extended the "DCA MOU");

b. Promptly execute such documentation as DCA may require from time to time to evidence Chamber's continued agreement to serve as the City's designated provider of the Covington Main Street Program, including, but not limited to, such Memoranda of Understanding, or any renewal or extension thereof, as DCA may require as of January 1, 2015 or thereafter during the term of this Agreement;

c. Maintain at all times the Chamber's status as a qualified designee for receipt of certain Hotel/Motel Tax Revenues as both a private sector non-profit organization and a destination marketing organization as those terms are defined by O.C.G.A. § 48-13-50;

d. Adhere to the Georgia Main Street Program's Minimum Standards as adopted by DCA from time to time;

e. Within one hundred twenty (120) days of the effective date of this Agreement, employ a paid professional Main Street Director who will be responsible for the day-to-day administration of the Covington Main Street Program ("Main Street Director"). In the event the Main Street Director position is vacated during the term of this agreement, the Chamber agrees as follows:

(i) to fill the position within one hundred twenty (120) days of any such vacancy;

(ii) to send the Main Street Director to manager's training as designated by DCA as soon as possible after the position has been filled;

(iii) to notify the City's City Manager within twenty (24) hours of a Main Street Director vacancy.

(iv) to appoint an interim Main Street Director until the vacancy can be filled.

f. Promptly and timely provide DCA and the City with all notices, information and copies of reports submitted by the Chamber to DCA and otherwise as necessary for the City or the Chamber to comply with the obligations of the Community (as defined in the DCA MOU) under the DCA MOU or any renewal, extension or successor agreement or memorandum of understanding between the City, the Chamber and the Georgia Department of Community Affairs regarding the Georgia Main Street Program.

g. Keep the City apprised of changes in leadership by furnishing and updating contact information for the chair, president, manager, and current Main Street Committee members, which include mailing addresses, phone, and email.

h. Expend funds and in-kind services for continuation of the Covington Main Street Program.

i. Implement a comprehensive approach to downtown revitalization following the Four-Point Approach recommended by the National Main Street Center and the Georgia Main Street Program, including development of annual written work plans for the Covington Main Street Program. The proposed program of work plan is to be submitted to City for review annually on or before March 31st. Upon request of the City, the Main Street Director shall meet with the City's Mayor and Council during the month of March to discuss such work plan.

j. Limit the Covington Main Street Program activities to the boundaries of the Main Street district as designated by the City from time to time.

k. Maintain a Main Street office with standard business operating hours within the Main Street boundaries.

l. Maintain data for monitoring the progress of the Covington Main Street Program, submit required quarterly progress reports using formats approved by the City, and provide other information requested by the City on or before the identified deadlines. Quarterly reports shall include a profit and loss statement for such period and a written update on the progress of the program of work and shall include an oral presentation to the City's mayor and council.

m. Maintain a committee, appointed by the Chamber, dedicated to consulting and advising the Main Street Director on the Main Street program of work and overseeing operation of the Covington Main Street Program.

n. To the extent that such laws are applicable to the Chamber, the Chamber shall comply with the Georgia Open Meetings Act, O.C.G.A. § 50-14-1, et. seq., and the Georgia Open Records Act O.C.G.A. § 50-18-70, et. seq.

o. Within six (6) months following the end of every fiscal year of the Chamber of which the term was a part, provide City with a profit and loss report, financial statements, and review report prepared for the Chamber by an external certified public accountant.

p. In the event the Chamber is desirous of requesting that the City close any public streets, the Chamber shall, following approval of such request by the City's Police Department and Transportation Department and at least ten (10) days prior to the meeting of the city council at which such closure shall be considered, submit such request to the City's clerk.

2. Term. The term of this Agreement shall commence as of the date of last execution and shall end on June 30, 2014, unless earlier terminated by breach of Chamber of its obligations hereunder or by any party, with or without cause, upon ninety (90) days prior written notice, each to the other. This Agreement shall automatically renew absent the affirmative vote of any party not to renew and written notice of such non-renewal delivered to the other parties not less than thirty (30) days prior to the end of the then current term.

3. Consideration.

a. The Chamber shall submit a proposed line item budget to the City in March of each fiscal year setting forth its projected financial requirements for the next succeeding calendar year.

b. The proposed line item budget submitted by the Chamber shall be reviewed by the Mayor and Council of the City and approved at a level of funding which the City, in its sole discretion, may deem reasonable, necessary and adequate to allow the Chamber to fulfill its obligations under this Agreement.

c. Said funds may be distributed by the City to the Chamber on a monthly basis in the case of expenditures for normal maintenance and operations. Such funds may also be distributed to the Chamber at such other times or intervals as may be required for capital expenditures or in the case of abnormal maintenance and operations.

d. Said funds shall be in the amount of 40% of Hotel/Motel Tax Revenues that would be collected by the City at a Hotel/Motel Tax Revenues rate of 5% during such fiscal year.

e. In addition to the required line item budget and the requirements of Section 6, hereof, the Chamber shall submit to the City an annual expense report, to be received by the City on or before March 31 of the next succeeding year, of the Chamber's expenditure of Hotel/Motel Tax Revenues received by the Chamber pursuant to the provisions of O.C.G.A. §48-13-51(a)(3) in accordance with this Agreement. Such report shall include the name and description of each item for which such revenue was expended and the amount of expenditures for each item.

4. Default.

a. Failure on the part of the Chamber to (i) discharge its obligations under Section 1 hereof in a proper and timely manner or (ii) to remain solvent, shall constitute a breach of this Agreement and shall relieve the City of any obligation to provide further financial assistance to the Chamber for the Covington Main Street Program. For purposes of this paragraph, insolvency shall be defined as a reasonable belief on the part of City that the Chamber is insolvent (however evidenced), or has made any assignment for the benefit of creditors, or any proceeding is instituted by or against the Chamber alleging that the Chamber is insolvent or unable to pay debts as they mature. Likewise, failure of the City to provide financial assistance to the Chamber

as provided in Section 3 hereof, without cause, shall constitute a default under the terms of this Agreement and shall relieve the Chamber of any further obligation under this Agreement.

b. The parties acknowledge that they are parties to two (2) additional agreements, to wit that certain Service Contract with an effective date of July 1, 2009 for Chamber provision of tourism services for the City and that certain Service Agreement with an effective date of January 1, 2008 for Chamber provision of economic development services for the City (the "Tourism and Economic Development Agreements"). Chamber acknowledges that its breach of either of the Tourism and Economic Development Agreements, or of any successor agreements between the parties regarding the same subject matter, to (i) expend funds only for purposes set forth in either such agreements, or (ii) to make materially accurate financial reporting to the City as required under such agreements, shall constitute a breach of this Agreement.

5. Status. It is expressly understood that the Chamber shall at all times operate as an independent contractor and shall not at any time be the agent or employee of the City. The Chamber agrees that employees, if any, hired by the Chamber in order to discharge its duties under this Agreement shall be solely dependent upon the Chamber for compensation and all other benefits that may arise from such employment either by contract or by the law, and that such employees shall in no way be compensated by the City.

6. Books and Records. The Chamber shall maintain books and records accounting for the distribution and expenditure of all funds received from the City, and the same shall be open to the City, its agents and representatives, at all reasonable times for purposes of audit and inspection.

7. Non-Assignability. The Chamber shall not transfer, assign or sub-contract its duties or obligations hereunder to any other firm, person, corporation or other entity without first securing the prior written consent of the City, which consent City may withhold or delay in its sole discretion.

8. Miscellaneous Provisions.

a. The failure to enforce any breach of this Agreement by either party shall neither constitute a waiver as to the right to require that performance of such defaulted obligations nor waive any future breach of this Agreement.

b. This writing terminates and supersedes all prior agreements between the parties hereto pertaining to the subject matter hereof, whether oral or in writing, and constitutes the entire Agreement between the parties hereto, subject only to modification by subsequent writing of equal formality with this instrument executed by the parties hereto and making reference to this Agreement.

c. The terms and conditions of this Agreement are separate and severable, and, if for any reason any court of law or administrative agency should deem any provision hereof invalid or inoperative, the remaining provisions of this agreement shall remain valid and in full force and effect.

d. Time is of the essence in the performance of the terms of this Agreement.

e. The parties hereto each warrant and represent to the other that they have been duly authorized by their respective governing bodies to enter into and execute this Agreement.

f. The parties acknowledge that the recitals contained in this Agreement are true and correct.

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be executed by their duly authorized officers and representatives effective as of the day and year first above written.

**CITY OF COVINGTON**

BY: \_\_\_\_\_  
Ronnie Johnston, Mayor

Attest: \_\_\_\_\_  
Leigh Anne Knight, City Manager

(CITY SEAL)

**COVINGTON-NEWTON COUNTY  
CHAMBER OF COMMERCE, INC.**

BY: \_\_\_\_\_  
Hunter Hall, President

Attest: \_\_\_\_\_  
Sherry Dudley, Office Manager

(CORPORATE SEAL)