

TO: City Council
FROM: James L. App, City Manager
SUBJECT: **Downtown Promotion Service Agreement**
DATE: November 6, 2007

NEEDS: For the City Council to consider an agreement with the Paso Robles Main Street for downtown promotion services.

- FACTS:**
1. The City's 2003 General Plan established a vision for Paso Robles as a place where one could "live, work, and shop." The community's Economic Development Strategy identifies four primary strategies to achieve that vision.
 2. The Economic Development Strategy includes continued revitalization and expansion of the City's downtown business district.
 3. To that end, the City seeks assistance from Paso Robles Main Street to promote downtown business.
 4. Paso Robles Main Street has provided downtown promotion services to the City for more than a decade.
 5. The Council appointed an ad hoc committee, Gary Nemeth & Fred Strong, to develop a new 4-year service agreement with Main Street.
 6. The Council Committee has met with Main Street staff and Board representatives. Both recommend adoption of the attached agreement.
 7. The Main Street Association accepts the recommended agreement.

ANALYSIS &

CONCLUSION: Current and earlier agreements with Main Street have provided payment for "special knowledge and experience to focus on the organization, promotion, design, and economic restructuring necessary to accomplish revitalization within the City's Redevelopment Project Area" and the goals of the Economic Development Strategy. The proposed agreement includes provisions to continue and expand these services. Given the City's long-standing and successful contract relationship with Main Street, assurance of continued service is central to ongoing efforts to continually improve, enhance, and expand downtown commerce and activity. To that end, the Council ad hoc committee recommends adoption of the attached 4-year agreement.

The proposed fee structure includes:

- Year 1 - \$90,000 for recurring services, plus \$10,000 one time payment to develop a marketing plan and baseline commerce and promotion data; and
- Year 2 - \$90,000 plus CPI for recurring services; and
- Year 3 – Year 2 fee plus CPI; and
- Year 4 – year 3 fee plus CPI.

POLICY

REFERENCE: 2003 General Plan, 2006 Economic Development Strategy, FY 08-11 Budget/Financial Plan.

FISCAL

IMPACT: The proposed payments are included in the adopted 4-year Financial Plan.

OPTIONS:

- A. Approve, and Authorize the Mayor to Execute, the Agreement.**
- B. Amend, Modify or Reject the Agreement.**

Attachment: FY 08-11 Agreement

AGREEMENT BETWEEN THE CITY OF EL PASO DE ROBLES
AND PASO ROBLES MAIN STREET, INC., FOR THE PROVISION
OF DOWNTOWN PROMOTION SERVICES

THIS AGREEMENT ("Agreement"), effective July 1, 2007, is made and entered into this _____ day of _____ 2007, by and between the City of El Paso de Robles, hereafter referred to as "CITY", and Paso Robles Main Street, Inc., hereafter referred to as "MAIN STREET".

WHEREAS, MAIN STREET has special knowledge and experience, together with available facilities and personnel, to provide downtown promotion services necessary to enhance the economic vitality of the City's historic downtown business area; and

WHEREAS, the CITY desires to have MAIN STREET provide these services in order to facilitate economic development and historic preservation in the downtown area; and

WHEREAS, MAIN STREET is willing to provide the services hereinafter set forth on behalf of the CITY in the manner and for the purpose hereinafter provided.

CITY and MAIN STREET hereby enter into this Agreement to set forth the terms and conditions relating to certain downtown promotion services to be provided by MAIN STREET.

1. MAIN STREET RESPONSIBILITIES. MAIN STREET shall provide and perform the following services and activities during the term of this agreement:
 - A. Carry out the National and State of California Main Street Program in accordance with the guidance and assistance of the State of California and the National Trust for Historic Preservation;
 - B. Adopt a Work Plan, in accordance with the Scope of Work attached as "Exhibit A", reflecting the array of services requested by the CITY and the relative priority that the CITY has accorded to each group of services;
 - C. Prepare a marketing plan, including the identification of steps necessary to implement the Scope of Work, within the first year of this Agreement.
 - D. Collect current marketing data for use in future evaluations of downtown promotion services, within the first year of this Agreement.
 - E. Promote downtown Paso Robles as a unit and enhance its economic viability;
 - F. Initiate communication and actively coordinate and cooperate with the Chamber of Commerce, Paso Robles Visitors and Conference Bureau, Paso Robles Events Center, and the Paso Robles Wine Country Alliance;

- G. Operate and maintain a professional staff and an office setting for the Paso Robles Main Street Program;
- H. Identify and implement steps toward increasing non-City financial resources in accordance with MAIN STREET's adopted Work Plan;
- I. Maintain a board member liaison to the Paso Robles Chamber of Commerce's board and to include a Paso Robles Chamber of Commerce board member as a board liaison to MAIN STREET.
- J. Provide to the CITY by July 31 of each year an annual report of MAIN STREET's implementation of the adopted Work Plan.

2. COMPENSATION. In consideration of the services performed by MAIN STREET pursuant to this Agreement, and so long as MAIN STREET is not in default under any of the provisions of this Agreement, CITY will make payments to MAIN STREET as follows:

- A. Commencing with CITY'S fiscal year beginning July 1, 2007, CITY shall appropriate to MAIN STREET annual amounts as indicated below, to be disbursed each calendar quarter in equal payments:

Fiscal Year 2007/2008	\$90,000
Fiscal Year 2008/2009	\$90,000, plus CPI adjustment
Fiscal Year 2009/2010	FY 2008/2009 compensation, plus CPI adjustment
Fiscal Year 2010/2011	FY 2009/2010 compensation, plus CPI adjustment

As used herein, the term "CPI adjustment" shall mean the increase in the Consumer Price Index ("CPI") for "All Urban Wage Earners and Clerical Workers" (San Francisco-San Jose-Oakland) category as published by the U. S. Bureau of Labor Statistics for the preceding fiscal year. In no event shall the compensation be reduced below the compensation for the preceding fiscal year.

- B. In addition, CITY shall appropriate to MAIN STREET \$10,000 in Fiscal Year 2007/2008 for the preparation of a marketing plan and collection of baseline marketing data.
- C. It is understood and agreed that these payments shall be expended for authorized and budgeted MAIN STREET activities only. Funds disbursed under this Agreement will be used for the benefit of the downtown area.
- D. In the event that the City Council is compelled to reduce General Fund budget expenditures in any given year during the term of this Agreement, the amount of the annual payment under this Agreement for such year shall be reduced by the same percentage as the overall General Fund budget reduction, as determined by CITY. CITY shall notify MAIN STREET of any such reduction as early as is

reasonably feasible, and understands that any reduction in CITY's payment may result in a proportionate reduction in MAIN STREET services provided under this Agreement.

- E. This Agreement shall not prevent CITY from appropriating additional sums for specific projects that CITY may desire to have performed by MAIN STREET.
- 3. MAIN STREET'S ANNUAL BUDGET. MAIN STREET shall, by April 1 of each year, submit to the CITY for review by the City Council, a budget and plan for downtown promotion services to be provided by MAIN STREET during the next following fiscal year covered by this Agreement. The budget shall first have been approved by MAIN STREET's Board of Directors.
- 4. MAIN STREET'S FINANCIAL RECORDKEEPING AND REPORTING. Upon 15 days notice to MAIN STREET, the CITY shall have the right to audit the books, records, and accounts of MAIN STREET during normal business hours. In addition to the annual reports MAIN STREET is to furnish to the CITY pursuant to Section 1, above, MAIN STREET shall also provide the State of California with required reports on Main Street Program activities.
- 5. POLITICAL ACTIVITY. MAIN STREET shall not use any monies received under this Agreement for the endorsement, opposition or participation in any political or lobbying activity, including but not limited to, involvement in the support or opposition to any candidate for public office or proposed ballot measure.
- 6. INDEMNIFICATION, HOLD HARMLESS. MAIN STREET shall indemnify, defend and hold CITY, its members, officers, directors, agents and employees free and harmless from any and all liability, claims, damages, losses and expenses, including attorney fees, arising out of the performance by MAIN STREET of the services provided for hereunder, caused in whole or in part by any act of MAIN STREET, its officers, employees or agents in carrying out the terms of this Agreement.
- 7. INSURANCE. MAIN STREET agrees to maintain in full force and effect, at its sole cost and expense, during the term of this Agreement the following insurance:
 - A. Workers' Compensation in accordance with State law for all of its employees engaged in the work and services to be provided under this Agreement.
 - B. General Liability in an amount not less than Five Hundred Thousand Dollars (\$500,000) combined single limit liability applying to bodily injury, personal injury and property damage, and products damage insurance in a sum of not less than Twenty-Five Thousand Dollars (\$25,000).

All such insurance policies shall be carried with insurance companies satisfactory to the CITY and shall name the CITY, its officers, agents, and employees as additional insured with respect to the work and services being performed under this Agreement. MAIN

STREET shall cause to be furnished to the CITY certificates of insurance stating that such insurance is in full force and effect; that the premiums thereon have been paid; and that the insurance carrier will give the CITY at least ten (10) days prior written notice of cancellation, termination or modification. The CITY is not liable for the payment of premiums or assessments on this policy.

8. INDEPENDENT CONTRACTOR; NOT AGENT. Notwithstanding any other representation, oral or written, between the parties, including any and all agents or representatives thereof, MAIN STREET is at all times during the term of this Agreement acting as a free and independent contractor, and shall not be an employee or an agent of CITY.

Except as CITY may authorize in writing, MAIN STREET shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. MAIN STREET shall have no authority, express or implied, pursuant to this Agreement, to bind CITY to any obligations whatsoever.

9. CONFLICT OF INTEREST. MAIN STREET shall not enter into any contract or agreement that will create a conflict of interest with its duties to CITY under this Agreement.

No member, official or employee of CITY shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is directly or indirectly interested. MAIN STREET warrants that it has not paid or given, and will not pay or give, any third party any money or other consideration for obtaining this Agreement.

10. LICENSES, PERMITS. MAIN STREET represents and warrants to CITY that it has, and shall maintain at all times during the term of this Agreement, at its sole cost and expense, all business licenses, permits, qualifications and approvals of whatsoever nature which are legally required for MAIN STREET to provide the services hereunder.
11. ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligations pursuant to this Agreement shall be void and of no effect.
12. NON DISCRIMINATION. MAIN STREET agrees to comply with all fair employment practice laws of the state and federal government. MAIN STREET covenants and agrees for itself, its successors, its assigns and every successor in interest, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, medical condition, disability, marital status, ancestry or national origin in the provision of any services to be provided by MAIN STREET hereunder, nor shall MAIN STREET or any person claiming under or through MAIN STREET establish or permit any such practice or practices of

discrimination or segregation in the provision of any services to be provided by MAIN STREET hereunder.

13. REVERSION OF FUNDS AND PROPERTY. During the term of this Agreement should the Paso Robles Main Street, Inc. Board of Directors be dissolved, disbanded, or otherwise cease to function in a manner described in this Agreement, all assets of MAIN STREET shall be disbursed in accordance with applicable provisions in MAIN STREET's Bylaws. All funds attributable to the CITY, and equipment purchased out of funds provided by the CITY, shall revert to ownership of the CITY. For the purpose of this provision, MAIN STREET shall maintain a written record of, and include as part of each annual report, a listing of capital equipment that has been purchased with the funds provided by CITY.
14. TERM. The term of this Agreement shall be for four successive one-year periods beginning July 1, 2007 and expiring each June 30 thereafter, and finally June 30, 2011, unless terminated earlier in accordance with Section 15 or 16 below.
15. DEFAULT. The failure of the parties to abide by any of the terms of this Agreement shall constitute a default under this Agreement. If either party fails to cure any such default within five (5) days of receiving notice from the other party of such default, then this Agreement may be terminated by giving ten (10) days written notice of such termination. Upon any such termination, the final quarterly payment to be paid under Section 2, above, shall be adjusted on a pro rata basis to the date of such termination, and if applicable, MAIN STREET shall immediately return to CITY any amounts previously paid by CITY for any period subsequent to the date of such termination.
16. TERMINATION. In addition to termination pursuant to Section 14 or 15, above, this Agreement may be terminated in whole or in part at any time by either party hereto upon one year's written notice to the other as identified below. In the event of any termination of this Agreement, all rights and obligations of both parties hereto, including without limitation the quarterly payments from CITY to MAIN STREET hereunder, shall terminate as of the date of such termination (and the final payment shall be adjusted on a pro rata basis to the date of such termination).
17. NOTICES. All notices pursuant to this Agreement shall be in writing and mailed, postage prepaid, first class, or personally delivered, to the addresses set forth below, or such other address as a party may designate in writing.
18. FULL AGREEMENT AND AMENDMENT. This document represents the entire understanding between the parties and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may only be amended by a writing signed by both parties.
19. SEVERABILITY. Should any provision of this Agreement be deemed to be legally void or unenforceable, all remaining provisions shall survive and be enforceable. This Agreement shall in all respects be governed by the laws of the State of California.


20. ATTORNEYS' FEES. In the event suit is brought for the enforcement, or interpretation, of this Agreement, the prevailing party shall be entitled to reasonable attorney fees.

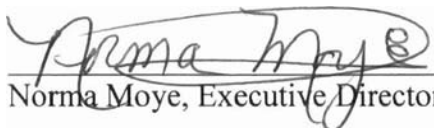
IN WITNESS WHEREOF, this Agreement is herby executed as of the day and year first hereinabove written.

THE CITY OF EL PASO DE ROBLES
1000 Spring Street
Paso Robles, CA 93446

By _____
Frank R. Mecham, Mayor

PASO ROBLES MAIN STREET, INC.
835 12th Street, #D
Paso Robles, CA 93446

By  _____
Matt Masia, President

By  _____
Norma Moye, Executive Director

Attest:

By: _____
Deborah Robinson
Deputy City Clerk

