

One-rdg. \_\_\_\_\_  
P. Hrngs. \_\_\_\_\_  
Pgs. 7  
Filed: 06-07-16

Sponsored by: Fulnecky

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

COUNCIL BILL NO. 2016- 141

SPECIAL ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE

1 AUTHORIZING the City Manager, or his designee, to enter into an agreement with the  
2 Greater Springfield Area Sports Commission, Inc. (Sports  
3 Commission), whereby the City will provide the Sports Commission  
4 with a share of the City's collection fees from the hotel/motel gross  
5 receipts tax to fund the Sports Commission's efforts to promote the  
6 hosting of national and regional sporting events to the City.  
7 \_\_\_\_\_  
8

9 BE IT ORDAINED, BY THE COUNCIL OF THE CITY OF SPRINGFIELD,  
10 MISSOURI, as follows, that:

11 Section 1 – The City Manager, or his designee, is hereby authorized to enter into  
12 an agreement with the Sports Commission, said agreement to be substantially in form  
13 and content as that document attached hereto and incorporated herein by reference as  
14 “Exhibit A.”  
15

16 Section 2 – This ordinance shall be in full force and effect from and after  
17 passage.  
18

19 Passed at meeting: \_\_\_\_\_  
20

21 \_\_\_\_\_  
22  
23 Mayor

24 Attest: \_\_\_\_\_, City Clerk  
25

26 Filed as Ordinance: \_\_\_\_\_  
27  
28

29 Approved as to form: Rhonda Lewoder, Assistant City Attorney  
30

31 Approved for Council action: Greg Burt, City Manager  
32  
33

**EXPLANATION TO COUNCIL BILL NO: 2016- 141**

FILED: 06-07-16

ORIGINATING DEPARTMENT: Law Department

PURPOSE: This bill authorizes the City Manager, or his designee, to enter into an agreement with the Greater Springfield Area Sports Commission, Inc. (Sports Commission), whereby the Sports Commission will receive a share of the City's collection fees from the hotel/motel gross receipts tax authorized by Article V of Chapter 70 of the Springfield City Code to promote the hosting of national and regional sporting events.

BACKGROUND INFORMATION: The Sports Commission is a non-profit corporation organized in 1999 for the purpose of enhancing the quality of life and stimulating economic growth in the Springfield area, by promoting the area as a host city for quality national and regional sporting events and other ancillary activities. A portion of the Sports Commission's budget comes from the City's collection fees from the hotel/motel gross receipts tax. The portion of the City's collection fees budgeted for the Sports Commission in Fiscal Year 2015-2016 was \$73,625, and the amount budgeted for Fiscal Year 2016-2017 is \$77,250.

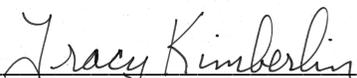
Entering into an agreement will continue the funding of the Sports Commission from a share of the City's collection fees from the hotel/motel gross receipts tax.

This Council Bill supports the following Field Guide 2030 goal(s): Chapter 1, Arts, Culture and Tourism; Major Goal 6, Use product development and promotion generated through the travel and tourism industry to increase sales tax revenue and other economic benefits; Chapter 3, Economic Development; Major Goal 1, Create a competitive business climate.

The Board of Directors consists of ten perpetual members representing the City, Park Board, City Utilities, Convention & Visitors Bureau, Chamber of Commerce, Springfield R-12 School District, Missouri State University, Drury University, Evangel University and the Greene County Agricultural and Mechanical Society of Springfield, Missouri (Ozark Empire Fair), and other directors as elected.

REMARKS: No significant revisions have been made in this year's contract and the Springfield Convention & Visitors Bureau manages the Sports Commission and provides administrative support for the Sports Commission.

Submitted by:

  
\_\_\_\_\_  
Tracy Kimberlin, President/CEO

Approved by:

  
\_\_\_\_\_  
Greg Burris, City Manager

**Exhibit A**

<b>EFFECTIVE DATE</b> JULY 1, 2016	<b>TERMINATION DATE</b> JUNE 30, 2017	<b>CONTRACT NUMBER:</b> _____
<b>CITY</b>		<b>CONTRACTOR</b>
CITY OF SPRINGFIELD 840 BOONVILLE, PO Box 8368 SPRINGFIELD, MO 65801-8368 PHONE: 417-864-1625 ATTN: MARY MANNIX-DECKER		GREATER SPRINGFIELD AREA SPORTS COMMISSION, INC. 815 E. ST. LOUIS STREET, SUITE 100 SPRINGFIELD, MO 65806 PHONE: 417-881-5300 ATTN: TRACY KIMBERLIN

**AGREEMENT**

**THIS AGREEMENT**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the City of Springfield, Missouri, a constitutionally chartered municipal corporation of the State of Missouri, hereinafter referred to as the "City," and the Greater Springfield Sports Commission, Inc., a not-for-profit Missouri corporation, hereinafter referred to as the "Contractor."

**WITNESSETH:**

**WHEREAS**, the Contractor desires to promote sports and sporting events within the Greater Springfield Missouri area in accordance with the Scope of Services attached as **Exhibit 1**, and

**WHEREAS**, the City desires to retain the services of the Contractor to promote sports and sporting events in the City by providing to Contractor an annual sum equal to a share of collection fees of the City from Hotel and Motel gross receipts tax collected by the City under Article V of Chapter 70 of the Springfield City Code.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. **TERM.** The term of this Agreement shall be from July 1, 2016, to June 30, 2017, subject to any changes to which both parties may subsequently assent in writing.
2. **SCOPE OF SERVICES.** The City will engage the services of the Contractor to establish and perform services which are more particularly described in **Exhibit 1** and incorporated herein by reference. The City authorizes the Contractor, and the Contractor agrees to proceed with the development of programs for those activities listed in **Exhibit 1**.
3. **AGREEMENT ADMINISTRATION.** The City designates the City Manager (or his designated alternate) as its representative to whom all communications related to the scope of work, cost, schedule, and personnel matters shall be directed by the Contractor.

The Contractor designates the President of the Springfield Convention and Visitors Bureau (or his designated alternate) as its representative for all work performed under this Agreement.

The aforementioned representatives of both the City and Contractor shall have primary responsibility and authority on behalf of each respective party to administer this Agreement and to agree upon procedures for coordinating the efforts of both parties under this Agreement.

4. **FURNISHING INFORMATION.** All information, data, and reports as are existing, available, and necessary for the carrying out of the work shall be furnished to the Contractor without charge by the City, and the City shall cooperate with the Contractor in every way possible in carrying out the services.
5. **COPYRIGHTS.** The Contractor shall defend, indemnify and hold the City harmless from any and all claims or causes of action, including reasonable attorneys' fees and legal expenses, arising out of or based upon any alleged infringement of any copyright, or any alleged invasion or infringement of any right of any third party in connection with the Contractor's performance of work hereunder.

6. REPORTS. Reports to the City will be made as follows:

A) Annual Reports: The Contractor shall submit an administrative progress report to the City, on an annual basis, which describes the work performed during the fiscal year. This report shall be submitted within sixty (60) days of the termination of this contract. This report shall be a synopsis and evaluation of the activity undertaken.

B) Other Reports: The Contractor shall submit to the City such other reports as may be requested or are necessary to inform the City of immediate problems which require City action.

7. PERSONNEL. The Contractor will secure such personnel as are authorized in its board approved budget. Such personnel shall not be employees of or have any contractual relationship with the City except as employees of the Contractor. All of the services required hereunder will be performed by the Contractor or under its direct supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under state and local law to perform such services.

8. KEY PERSONNEL AND PROGRAM ORGANIZATION. The Contractor will perform all of its services under this Agreement through a staff under the direction of its designated representative, who will be responsible for the management, scheduling, planning and coordination of the work, and for communications between the Contractor and the City, and for the overall fulfillment of all obligations of the Contractor under this Agreement.

9. COMMENCEMENT OF WORK. Services of the Contractor shall commence on July 1, 2016, and shall be completed in a timely manner.

10. PAYMENT. Payments from the City to the Contractor for services under this Agreement will be made monthly by the City by check solely from City collection fees on hotel/motel gross receipts tax collections under Article V, Chapter 70 of the Springfield City Code received by the City with Contractor's share thereof to be as follows: One-Half of the City's collection fees on the Two and One-Half Cent (2.5 cents) hotel/motel gross receipts tax increase passed by voters in 1998 and One-Twelfth of the City's collection fees on the One Half-Cent (.5 cents) hotel/motel gross receipts tax increase passed by voters in 2004, said collection fees as set forth in Section 70-287 of the Springfield City Code.

11. TERMINATION. If, through any cause, the Contractor shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, the City shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective day of such termination. The City may, without cause, terminate this Agreement upon ninety (90) days prior written notice. In either such event, the Contractor shall cease all work and all finished or unfinished documents, data, studies, surveys, and reports or other materials prepared by the Contractor for City, become the property of the City, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or other materials. Notwithstanding the above, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any such breach of this Agreement by the Contractor.

12. CITY - CONFLICT OF INTEREST. No salaried officer or employee of the City, and no member of the City Council shall have a financial interest, direct or indirect, in this Agreement which is in violation of Section 19.16 of the Springfield City Charter. A violation of this provision renders the Agreement void. No applicable federal regulations or applicable provisions in RSMo. Section 105.450 et seq. shall be violated.

13. RIGHT OF AUDIT.

A) Contractor's Books and Records: The Contractor shall keep accurate reports and other records showing in full detail the costs for which the Contractor claims reimbursement. The City may examine, at its own expense, at any time during regular business hours, such time and expense reports and other records at the Contractor's office, and the Contractor agrees that it will produce such records whenever reasonably required by the City. Any expense incurred by the Contractor to prepare the records for audit will be at the expense of the Contractor. If such examination should disclose that the City has paid the Contractor for labor hours which have not in fact been worked, for services not in fact rendered, or for other costs not expended in accordance with this Agreement, the Contractor shall refund to the City an amount equal to any such excesses, plus accrued interest at the rate of 10% (ten percent) per annum.

B) Subcontractor's Books and Records: The Contractor agrees to include the substance of this section in all subcontracts to be performed on a cost reimbursable, hourly rate, or similar basis, giving the City the right to audit, at its own expense, the books and records pertaining to any such subcontract.

14. INSURANCE. During the performance of all work under this Agreement or any subcontracts hereunder, the Contractor and its subcontractors shall maintain the following insurance coverage at no additional cost to the City and provide satisfactory evidence of coverage prior to the commencement of any work.

1) Workers' Compensation - as required by law.

2) Comprehensive General Liability, including personal injury and contractual liability with minimum limits of \$2,000,000 Bodily Injury and Property Damage combined.

3) Comprehensive Automobile Liability, including owned, non-owned, and hired cars, with minimum limits of \$2,000,000 Bodily Injury and Property Damage combined.

In the event the scope or extent of the City's tort liability as a governmental entity as described in RSMo. Section 537.600 through Section 537.650 (Supp. 1995) is broadened or increased during the term of this agreement by legislative or judicial action, the City may require Contractor, upon ten (10) days written notice, to execute a contract addendum whereby the Contractor agrees to provide, at a price not exceeding Contractor's actual increased premium cost, additional liability insurance coverage as the City may require to protect the City from increased tort liability exposure as the result of such legislative or judicial action. Any such additional insurance coverage shall be evidenced by an appropriate certificate of insurance shall take effect within the time set forth in the addendum.

All evidence issued in supporting these requirements must provide for the City as an "additional insured" with a minimum 30-day notice of cancellation. All evidence of insurance is to be sent to the Law Department, Busch Building, 840 Boonville, Springfield, Missouri 65802.

15. DISCRIMINATION. The Contractor agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, status as a protected veteran or status as a qualified individual with a disability, or political opinion or affiliation, against any employee of Contractor or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder. The parties hereby incorporate the requirements of 41 C.F.R. §§ 60-1.4(a)(7), 29 C.F.R. Part 471, Appendix A to Subpart A, 41 C.F.R. § 60-300.5(a) and 41 C.F.R. § 60-741.5(a), if applicable.

**A. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-300.5(a). This regulation prohibits discriminations against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**

**B. This contractor and subcontractor shall abide by the requirements of 41 C.F.R. § 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**

16. INDEPENDENT CONTRACTOR. The Contractor is an independent contractor with respect to all services performed hereunder, and nothing contained herein shall constitute or designate the Contractor or any of its agents or employees as agents or employees of the City of Springfield, Missouri.

The Contractor and its agents, employees, and subcontractors shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Workers' Compensation Program for the City.

17. INDEMNIFICATION AND LIABILITY. The parties mutually agree to the following:

A) In no event shall the City be liable to the Contractor for special, indirect, or consequential damages, whether or not caused by or resulting from City's negligence, arising out of or in any way connected with a breach of this Agreement. No claim or claims of any kind, either separately or in the aggregate, by the Contractor against the City, and in any way arising out of or in any way connected with this Agreement, whether based on negligence, breach of contract, shall be greater in amount than the total reimbursement under Paragraph 10 hereof.

B) The Contractor shall defend, indemnify, and hold the City harmless from and against any and all claims, losses, and causes of action arising out of any claims or causes of action, including but not limited to personal injuries, death, or damage to property which are incurred by the Contractor, or any third party arising out of or in any way connected with the services performed by the Contractor pursuant to this Agreement.

C) The Contractor assumes full responsibility for relations with subcontractors, and shall defend, indemnify and save harmless the City from and against, any and all liability, suits, claims, damages, costs (including attorneys' fees), losses, outlays, and expenses in any manner caused by, arising out of or connected with this contract, notwithstanding any possible negligence (whether sole, concurrent or otherwise) on the part of the City, its agents or employees.

18. APPLICABLE LAWS. The Contractor agrees to comply with all laws of the United States of America, the State of Missouri, and the City of Springfield which are applicable to work being performed by the Contractor under this Agreement.

19. JURISDICTION. The parties mutually agree that jurisdiction and venue for the purposes of any action resulting from this Agreement by the parties shall be in Greene County, Missouri.

20. NOTICES. All notices required or permitted hereunder and required to be in writing may be given by first class mail addressed to the City at 840 Boonville, Springfield, Missouri 65802, and the Contractor at 815 E. St. Louis, Street, Suite 100, Springfield, Missouri 65806-4048. The date of delivery of any notice shall be the date falling on the second full day after the day of its mailing.

21. ENTIRE AGREEMENT. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

22. CONTINGENCIES. This contract is contingent upon the Contractor maintaining its not-for-profit corporation status and maintaining a board of directors as follows:

A) A not-for-profit corporation as defined by the Internal Revenue Code in Section 501 (c) (6).

B) The Board of Directors shall include ten (10) perpetual members, one of each of whom shall be selected by the following organizations: City of Springfield, Missouri; Springfield/Greene County Park Board; Springfield Convention and Visitors Bureau; Springfield Area Chamber of Commerce; Springfield R-12 School District; Missouri State University; Drury University; The Greene County Agricultural and Mechanical Society of Springfield, Missouri (Ozark Empire Fair); City Utilities; and Evangel University. The at-large members of the Board will be elected by a simple majority of the perpetual members. At large directors may be elected for successive terms. Perpetual members shall serve until their resignation or replacement by their sponsoring organization. All officers shall be elected by majority vote for one (1) year terms.

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals on the date first above written.

Attest:

**GREATER SPRINGFIELD AREA SPORTS COMMISSION, INC.**

\_\_\_\_\_  
Secretary

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

**CERTIFICATE OF DIRECTOR OF FINANCE**

Title: \_\_\_\_\_

I certify that the expenditure contemplated by this document is within the purpose of the appropriation to which it is to be charged and that there is an unencumbered balance of appropriated and available funds to pay therefor.

**CITY OF SPRINGFIELD, MISSOURI**

\_\_\_\_\_  
Mary Mannix-Decker, Director of Finance

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

Approved as to Form:

Collin Quigley, Assistant City Manager

\_\_\_\_\_  
City Attorney

## **Exhibit 1**

### **Scope of Services Greater Springfield Area Sports Commission, Inc.**

The Greater Springfield Area Sports Commission, Inc. is managed by the Springfield Convention & Visitors Bureau, Inc. and works with the Bureau to increase economic activity in the City of Springfield by attracting national and regional sporting events. Specific objectives and action plans for the Bureau and Sports Commission to attract national and regional sporting events can be found in the Bureau's 2016-2017 Marketing Plan.

General services to be performed by the Greater Springfield Area Sports Commission, Inc. shall include:

- Marketing the Springfield area to national and regional sporting event planners as a host city for such events.
- Working with sporting event planners to secure local venues for their events.
- Negotiating sleeping room rates and room blocks for event planners.
- Acting as a clearing house for scheduling of sporting events.
- Assisting local organizations by acting as sponsor for new and existing sporting events.
- Assisting local groups in the recruitment and organization of volunteers to staff national and regional sporting events.
- Hosting an annual awards banquet recognizing area high school athletes and teams.