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Filed:  09-13-16

Sponsored by:  McClure

First Reading:

Second Reading:

COUNCIL BILL NO.  2016- 224

SPECIAL ORDINANCE NO.

AN ORDINANCE

1 AUTHORIZING the City Manager, or his designee, to execute a contract between  
2 the City of Springfield and the Missouri Highways and  
3 Transportation Commission, providing for a grant of funds under  
4 Section 305.230, RSMo, to the City, by and through the Springfield-  
5 Branson National Airport Board in the amount of \$89,334.00 for  
6 development of an Airport Business Plan for the Springfield-  
7 Branson National Airport, and amending the budget of the Airport  
8 Board in the amount of \$99,260.00; and declaring that this bill  
9 qualifies for approval in one reading.

10 \_\_\_\_\_  
11  
12 WHEREAS, the City of Springfield (City), by and through its Airport Board, has  
13 applied to the Missouri Highways and Transportation Commission (MHTC) for a grant of  
14 funds under section 305.230, RSMo; and

15  
16 WHEREAS, MHTC has agreed to award funds in the amount of \$89,334.00 to  
17 the City with the understanding that such funds will be used in conjunction with partial  
18 matching funds provided by the Springfield-Branson National Airport (Airport) in the  
19 amount of \$9,926.00 to fund the development of an Airport Business Plan as described  
20 in the MHTC Airport Aid Agreement (Agreement); and

21  
22 WHEREAS MHTC and the City desire to enter into the Agreement related to the  
23 grant described herein.

24  
25 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF  
26 SPRINGFIELD, MISSOURI, as follows, that:

27  
28 Section 1 – The City Council hereby authorizes the City Manager, or his  
29 designee, to execute the Agreement between the City and MHTC, said agreement to be  
30 substantially in form and content as that document attached hereto and incorporated  
31 herein by reference as “Exhibit A.”  
32

33           Section 2 –City Council hereby amends the Airport Board’s budget for Fiscal  
34 Year 2016-2017 in the accounts and in the amounts as shown on Budget Adjustment  
35 No. 0010, a copy of which is attached hereto and incorporated herein by reference as  
36 “Exhibit B.”

37  
38           Section 3 –City Council hereby finds that the budget adjustment referenced  
39 above has been recommended by the City Manager and further finds that the budget  
40 adjustment herein is a necessary public expenditure.

41  
42           Section 4 –City Council, hereby directs the City Manager to cause the  
43 appropriate accounting entries to be made in the books and records of the City. In the  
44 event additional funding is provided under this grant by the grantor, City Council  
45 authorizes the Airport Board, so long as the Department of Aviation has sufficient  
46 retained earnings for any additional or matching funds required, to accept said  
47 additional funding and authorizes the Director of Finance to adjust the appropriation  
48 described herein by the additional amount accepted by the Airport Board.

49  
50           Section 5 –City Council finds and declares this ordinance relates to the  
51 acceptance of grant funds from a state or federal agency and may be passed as a one-  
52 reading ordinance pursuant to Section 2.16(25) of the City Charter. Therefore this  
53 ordinance shall be in full force and effect from and after passage.

54  
55  
56 Passed at meeting: \_\_\_\_\_  
57  
58  
59 \_\_\_\_\_  
60 Mayor

61  
62 Attest: \_\_\_\_\_, City Clerk

63  
64  
65 Filed as Ordinance: \_\_\_\_\_

66  
67  
68 Approved as to form:  \_\_\_\_\_, Assistant City Attorney

69  
70  
71 Approved for Council action:  \_\_\_\_\_, City Manager

**EXPLANATION TO COUNCIL BILL NO: 2016- 224**

FILED: 09-13-16

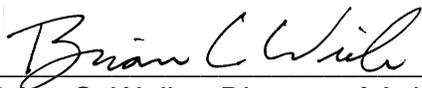
ORIGINATING DEPARTMENT: Airport

PURPOSE: To authorize the City Manager to execute an Airport Aid Agreement for the development of an Airport Business Plan between the City and the Missouri Highways and Transportation Commission (MHTC), pursuant to §305.230.4(1)(k) RSMo, which authorizes a grant of funds to the City, by and through the Springfield-Branson National Airport Board (Airport Board) in the amount of \$89,334.00 for air service marketing and promotion of the Springfield-Branson National Airport and to amend the budget for the Airport Board in the amount of \$99,260.00.

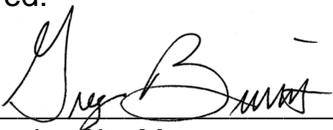
BACKGROUND INFORMATION: On May 11, 2015, the Airport Board applied for a grant from MHTC. On August 24, 2016, MHTC awarded the funds to help in the development of an Airport Business Plan. Pursuant to the terms and conditions expressed in the Airport Aid Agreement, attached to the proposed ordinance as "Exhibit A," the Airport shall provide partial funding in the amount of \$9,926.00 to help complete the project.

REMARKS: The Airport Board recommends that the City accept this Grant.

Submitted by:

  
\_\_\_\_\_  
Brian C. Weiler, Director of Aviation

Approved:

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

**Exhibit A**

CCO Form: AC01  
Approved: 02/94 (MLH)  
Revised: 01/15 (MWH)  
Modified: 09/16 (MWH)

Sponsor City of Springfield  
Project No. AIR 166-092A

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
AIRPORT AID AGREEMENT**

THIS GRANT AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and the City of Springfield (hereinafter, "Sponsor").

WITNESSETH:

WHEREAS, the Sponsor has applied to the Commission for a grant of funds under §305.230 RSMo; and

WHEREAS, the Commission has agreed to award funds available under §305.230 RSMo to the Sponsor with the understanding that such funds will be used for a project pursuant to this Agreement for the purposes generally described in the Sponsor's grant application/request dated May 11, 2015, and specifically described as follows:

Airport Business Plan;

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations in this Agreement, the parties agree as follows:

(1) PURPOSE: The purpose of this Agreement is to provide financial assistance to the Sponsor under §305.230 RSMo.

(2) AMOUNT OF GRANT: The amount of this grant is Eighty-Nine Thousand Three Hundred Thirty-Four Dollars (\$89,334); provided, however, that in the event state funds available to the Commission under §305.230 RSMo are reduced so that the Commission is incapable of completely satisfying its obligations to all the Sponsors for the current state fiscal year, the Commission may recompute and reduce this grant. The designation of this grant does not create a lump sum quantity contract, but rather only represents the amount of funding available for qualifying expenses. In no event will the Commission provide the Sponsor funding for improvements or work that are not actually performed. The release of all funding under this Agreement is subject to review and approval of all project expenses to ensure that they are qualifying expenses under this program.

(3) AMOUNT OF MATCHING FUNDS: The amount of local matching funds, and/or other resources, to be furnished by the Sponsor is Nine Thousand Nine Hundred Twenty-Six Dollars (\$9,926). The Sponsor warrants to the Commission that it has

sufficient cash on deposit, or other readily available resources, to provide the local matching funds to complete the project.

(4) PROJECT TIME PERIOD: The project period shall be from the date of execution of this Agreement by the Commission to September 1, 2017. The Commission's representative may, in writing, extend the project time period for good cause as shown by the Sponsor. The grant funds in paragraph (2) not expended or duly obligated during the project time period shall be released for use in other projects under §305.230 RSMo.

(5) TITLE EVIDENCE TO EXISTING AIRPORT PROPERTY: By signing this Agreement, the Sponsor certifies that it holds satisfactory evidence of title to all existing airport property and avigation easements.

(6) CONTROL OF AIRPORT: The Sponsor agrees to continue to control the airport, either as owner or as lessee, for twenty (20) years following receipt of the last payment from this grant.

(7) WITHDRAWAL OF GRANT OFFER: The Commission reserves the right to amend or withdraw this grant offer at any time prior to acceptance by the Sponsor.

(8) PAYMENT: Payments to the Sponsor are made on an advance basis. The Sponsor may request incremental payments during the course of a project or a lump sum payment upon completion of the work. However, this advance payment is subject to the limitations imposed by paragraph (8)(B) of this Agreement.

(A) The Sponsor may request payment at any time subsequent to the execution of this Agreement by both parties. Requests for reimbursement shall be supported with invoices. After the Sponsor pays incurred costs, copies of checks used to pay providers must be submitted to the Commission.

(B) It is understood and agreed by and between the parties that the Commission shall make no payment which could cause the aggregate of all payments under this Agreement to exceed ninety percent (90%) of the maximum state (Aviation Trust Fund) obligation stated in this Agreement or eighty-one percent (81%) of actual total eligible project cost, whichever is lower, until the Sponsor has met and/or performed all requirements of this grant Agreement to the satisfaction of the Commission.

(C) Within ninety (90) days of final inspection of the project funded under this grant, the Sponsor shall provide to the Commission a final payment request and all financial performance and other reports as required by the conditions of this grant.

(D) When land donations are used, the costs for land may be submitted with an appraisal prepared by a MoDOT-certified appraiser. All donations must be

preapproved by the Commission to ensure eligibility for funding.

(E) If the Commission determines that the Sponsor was overpaid, the amount of overpayment shall be remitted to the Commission.

(9) AUDIT OF RECORDS: The Sponsor must maintain all records relating to this Agreement, including but not limited to invoices, payrolls, etc. These records must be available at all reasonable times at no charge to the Commission and/or its designees or representatives during the period of this Agreement and any extension thereof, and for three (3) years from the date of final payment made under this Agreement.

(10) FINANCIAL SUMMARY: Upon request of the Commission, the Sponsor shall provide to the Commission a financial summary of the total funds expended. The summary must show the source of funds and the specific items for which they were expended.

(11) NONDISCRIMINATION CLAUSE: The Sponsor shall comply with all state and federal statutes applicable to the Sponsor relating to nondiscrimination, including, but not limited to, Chapter 213, RSMo; Title VI and Title VII of the Civil Rights Act of 1964 as amended (42 U.S.C. §2000d and §2000e, *et seq.*); and with any provision of the "Americans with Disabilities Act" (42 U.S.C. §12101, *et seq.*).

(12) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations by providing the Sponsor with written notice of cancellation. Should the Commission exercise its right to cancel this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Sponsor.

(13) LACK OF PROGRESS: Any lack of progress which significantly endangers substantial performance of the project within the specified time shall be deemed a violation of the terms of this Agreement. The determination of lack of progress shall be solely within the discretion of the Commission. The Commission shall notify the Sponsor in writing once such a determination is made.

(14) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(15) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The Sponsor shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(16) WORK PRODUCT: All documents, reports, exhibits, etc. produced by the Sponsor at the direction of the Commission and information supplied by the Commission shall remain the property of the Commission.

(17) CONFIDENTIALITY: The Sponsor shall not disclose to third parties confidential factual matters provided by the Commission except as may be required by statute, ordinance or order of court, or as authorized by the Commission. The Sponsor shall notify the Commission immediately of any request for such information.

(18) NONSOLICITATION: The Sponsor warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Sponsor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Commission shall have the right to annul this Agreement without liability, or in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

(19) DISPUTES: Any disputes that arise under this Agreement shall be decided by the Commission or its representative.

(20) INDEMNIFICATION:

(A) To the extent allowed or imposed by law, the Sponsor shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Sponsor's wrongful or negligent performance of its obligations under this Agreement.

(B) The Sponsor will require any contractor procured by the Sponsor to work under this Agreement:

(1) To obtain a no cost permit from the Commission's district engineer prior to working on the Commission's right-of-way, which shall be signed by an authorized contractor representative (a permit from the Commission's district engineer will not be required for work outside of the Commission's right-of-way); and

(2) To carry commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and to name the Commission, and the Missouri Department of Transportation and its employees, as additional named insureds in amounts sufficient to cover the sovereign immunity limits for Missouri public entities (\$500,000 per claimant and \$3,000,000 per occurrence) as calculated by the Missouri Department of Insurance, Financial Institutions and Professional Registration, and published annually in the Missouri Register pursuant to Section 537.610, RSMo.

(C) In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitution or law.

(21) NOTIFICATION OF CHANGE: The Sponsor shall immediately notify the Commission of any change in conditions or law which may significantly affect its ability to perform the project in accordance with the provisions of this Agreement.

(22) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the Sponsor and the Commission.

(23) PROFESSIONAL SERVICES BY COMPETITIVE PROPOSALS: Contracts for architectural, engineering and/or land surveying services, as defined in section 8.287 RSMo, shall be procured by competitive proposals, and the procurement process shall comply with sections 8.285-8.291 RSMo.

(24) ASSIGNMENT: The Sponsor shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

(25) BANKRUPTCY: Upon filing for any bankruptcy or insolvency proceeding by or against the Sponsor, whether voluntarily, or upon the appointment of a receiver, trustee, or assignee, for the benefit of creditors, the Commission reserves the right and sole discretion to either cancel this Agreement or affirm this Agreement and hold the Sponsor responsible for damages.

(26) COMMISSION REPRESENTATIVE: The Commission's chief engineer is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(27) SAFETY INSPECTION: The Sponsor shall eliminate all deficiencies identified in its most recent safety inspection letter. If immediate elimination is not feasible, as determined by the Commission, the Sponsor shall provide a satisfactory plan to eliminate the deficiencies.

(28) AIRPORT USE: The Sponsor agrees to operate the airport for the use and benefit of the public. The Sponsor further agrees that it will keep the airport open to all types, kinds, and classes of aeronautical use on fair and reasonable terms without discrimination between such types, kinds and classes. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Commission. Otherwise, at no time shall the airport be closed to accommodate a non-aeronautical event or activity.

(29) SAFE OPERATION OF AIRPORT: The Sponsor agrees to operate and maintain in a safe and serviceable condition the airport and all connected facilities which are necessary to serve the aeronautical users of the airport other than facilities owned or controlled by the United States. The Sponsor further agrees that it will not permit any activity on the airport's grounds that would interfere with its safe use for airport purposes. Nothing contained in this Agreement shall be construed to require that the airport be operated for aeronautical uses during temporary periods when snow, ice, or other climatic conditions interfere with safe operations.

*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, the parties have entered into and accepted this Agreement on the last date written below.

Executed by the Sponsor this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Executed by the Commission this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

CITY OF SPRINGFIELD

\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Attest:

By \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form:

Title \_\_\_\_\_

Ordinance No. \_\_\_\_\_  
(if applicable)

CITY OF SPRINGFIELD, MO  
BUDGET ADJUSTMENT

Exhibit B

BA Number 0010

Revenues:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
51040	01	46010	416020			89,334.00	Reimbursement from the MODot for airport business plan
51040	01	46010	417010			9,926.00	Transfer From Other Funds - Local Match
Net Revenue Adjustment						99,260.00	

Expenditures:

Fund	Dept	Org	Account	P&G	Location	Amount	Description
51040	01	46010	504580			99,260.00	Consulting expenses relating to airport business plan
51010	01	46010	502430			(9,926.00)	Fund Balance Appropriation - Local Match
51010	01	46010	509910			9,926.00	Transfer To Other Funds - Local Match
Net Expenditure Adjustment						99,260.00	

Fund Balance Appropriation:

Fund	Title	Amount

Explanation:

Funds can be used for a revenue guarantee to these airlines starting or expanding services, and for marketing of air services. The airport will have up to three years to use grant funds.

Requested By:

Brian C. White 9/14/16  
Department Head Date

Approved By:

D. J. Hill 9/14/16  
Interim Director of Finance Date

Authorization:

Council Bill No. 2016-224  
Ordinance No. \_\_\_\_\_  
1st Reading \_\_\_\_\_  
2nd Reading \_\_\_\_\_  
Journal Imp No. \_\_\_\_\_

\_\_\_\_\_  
City Manager Date