CCO Form: MO19
Approved: 1/99 (RMH)
Revised: 01/15 (MWH)
Modified:

Sponsor: City of Joplin
Project No.: AIR-176-090A -2

MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
AIR TRAFFIC CONTROL TOWER
OPERATING ASSISTANCE GRANT AGREEMENT

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

WITNESSETH:

WHEREAS, the purpose of this Agreement is to provide financial assistance to the Sponsor for the operation of the Air Traffic Control Tower (hereinafter, "Tower") at the Joplin Regional Airport (hereinafter, "Airport") pursuant to section 305.230 RSMo, and to set forth the conditions upon which the assistance will be provided.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations set forth below, the parties agree as follows:

(1) SCOPE OF WORK: The Sponsor agrees to operate the Tower in accordance with all rules and regulations of the Federal Aviation Administration and with all applicable Federal and State requirements.

(2) AMOUNT OF GRANT: The Commission agrees to reimburse the Sponsor up to Fifteen Thousand Five Hundred Eighty-Four Dollars ($15,584); provided, however, that in the event that state funds available to the Commission under section 305.230 RSMo are reduced so that the Commission is unable to completely satisfy its obligations to all Cities 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 to operate the Tower during the period of October 1, 2016 to September 30, 2016. The release of all funding under this Agreement is subject to the Commission's review and approval of all project expenses to ensure that they are qualifying expenses under this program. The grant funds in this paragraph not expended or duly obligated during the project time period shall be released for use in other projects under §305.230 RSMo.

(3) AMOUNT OF MATCHING FUNDS: The Sponsor shall furnish Fifteen Thousand Five Hundred Eighty-Four Dollars ($15,584) in local matching funds. The Sponsor warrants to the Commission that it has sufficient cash on deposit to provide the local matching funds to complete the project.

(4) PERFORMANCE OF AGREEMENT: The Sponsor shall immediately notify the Commission in writing of any condition or event which may significantly affect its ability to perform the activities in accordance with the provisions of the Agreement.

(5) COMMISSION'S RIGHT TO INSPECT DOCUMENTS AND AUDIT RECORDS:

(A) The Sponsor shall submit to the Commission such data, reports, documents, and other information relating to the operation of the Tower as the Commission may require at any time.

(B) 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 and 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.

(6) THIRD PARTY CONTRACTS:

(A) Prior to execution by either party, the Sponsor shall submit to the Commission for review, comment, and approval all contracts for services included in the Scope of Work Statement to be provided to the Sponsor by a third party.

(B) The Commission shall not be liable to the contractors or subcontractor of the Sponsor or any other person not a party to this Agreement in connection with the performance of this project without specific written consent of the Commission.

(7) PAYMENTS:

(A) Timing of Payments: The Commission's payments to the Sponsor will be made on a quarterly basis. The Commission will provide a reimbursement form to be completed by the Sponsor when requesting funds.

(B) Limitations on Commission Contribution: Funds made available to the Commission and the Sponsor are subject to appropriations made by the General Assembly.

(8) RIGHT OF COMMISSION TO TERMINATE AGREEMENT: Upon written notice to the Sponsor, the Commission reserves the right to suspend or terminate all or part of the financial assistance herein provided if the Sponsor is, or has been, in violation of any of the terms of this Agreement.

(9) COMMISSION'S 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 the Agreement.

(10) 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.

(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. Sections 2000d and 2000e, *et seq.*); and with any provision of the "Americans with Disabilities Act" (42 U.S.C. Section 12101, *et seq.*).

(12) 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 the Agreement.

(13) 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 respecting

its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(14) 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, gifts, or any other consideration, contingency 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 the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

(15) AMENDMENTS: Any change in the Agreement, whether by modification or supplementation, must be accomplished by a supplemental agreement signed and approved by the duly authorized representatives of the Sponsor and the Commission.

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

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

(18) 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.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into 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

_____

Title _____

Attest:

_____
Secretary to the Commission

Approved as to Form:

_____
Commission Counsel

CITY OF JOPLIN

By_____

Title_____

Attest:

By_____

Title_____

Approved as to Form:

_____

Title _____

Ordinance No. _____