

**CITY OF JOPLIN
COUNCIL AGENDA ITEM**

ITEM

Council Bill 2021-124 – authorizing the City of Joplin to enter into an Airport Agreement with SkyWest Airlines, Inc. to establish operational guidelines and fees in the Commercial Terminal at the Joplin Regional Airport; authorizing the City Manager to execute the same by and on behalf of the City of Joplin.

MEETING DATE

April 19, 2021

ORIGINATING DEPT

Public Works/Airport

ATTACHMENTS

CB2021-124 Ordinance; Airline Operational Agreement

REVIEWED BY

Dept. Head: David Hertzberg; Director of Finance: Leslie Haase; City Attorney: Peter Edwards;
City Manager: Nicholas Edwards

SUMMARY

This Council Bill approves an Airport Agreement for the operation of commercial Airline service by and between the City of Joplin and SkyWest Airlines, Inc.

BACKGROUND

SkyWest Airlines is to occupy space and operate commercial air service in the Commercial Terminal Building at the Joplin Regional Airport. This agreement outlines certain premises and facilities, rights, licenses, services and privileges in connection with and on the Airport, subject to the terms and conditions set forth within the agreement for ticket counter area, office area, and baggage handling area along with the compensation for the ARFF/Security and landing fees.

The lease term is to begin June 1, 2021 for a term of 3 years.

FUNDING SOURCE

N/A

RECOMMENDATION

Staff recommends adoption of this Council Bill on first reading.

AIRPORT AGREEMENT

THIS INDENTURE OF LEASE (the "Agreement"), made and entered into this 1st day of June, 2021 (the "Effective Date") by and between the CITY OF JOPLIN, MISSOURI, a Municipal Corporation (hereinafter called "LESSOR"), and SKYWEST AIRLINES, INC., (hereinafter called "LESSEE"),

WITNESSETH:

WHEREAS, LESSOR does own and is now operating certain real property located in the County of Jasper, State of Missouri, known as the Joplin Regional Airport (hereinafter called "AIRPORT") and LESSEE is engaged in the business of transporting persons, property, cargo and mail by air; and LESSOR desires to lease and grant, and LESSEE desires to accept certain premises and facilities on the AIRPORT, together with certain rights, licenses and privileges thereon:

NOW, THEREFORE, in consideration of the rents agreed to be paid by LESSEE, as hereinafter specified, LESSOR does hereby demise and let unto LESSEE, and LESSEE does hereby accept from LESSOR certain parts of the AIRPORT as designated on Exhibit "B," which is attached hereto (hereinafter the "Premises") together with all rights, licenses, services and privileges in connection with and on the Premises, subject to the terms and conditions hereinafter set forth, to wit:

1. PREMISES:

a. Use of AIRPORT. LESSEE shall have the right to use the AIRPORT and its appurtenances including, but not limited to, the landing field, runways, aprons, taxiways, sewage and water facilities, floodlights, landing lights, control tower, signals, radio aids, and all conveniences for flying, landing and takeoffs of aircraft of LESSEE, which shall include: LESSEE's right to operate a transportation system by aircraft for the carriage of persons, property, cargo, and mail, including without limitation, the landing, take off, parking, servicing, repairing, storing, testing, loading and unloading of LESSEE's aircraft; the right to load and unload persons, property, cargo and mail at the AIRPORT by such motor cars, buses, trucks or other means of conveyance as LESSEE may require in the conduct of its business; and the right to install, maintain, use and operate such fuel, radio communications, meteorological and aerial navigation equipment and facilities, in, on, or about the Premises herein leased as may be deemed necessary by LESSEE for its operations, as well as the right to install advertising signs, and the conduct of any other operation or activity reasonably necessary to the conduct by LESSEE of air transportation or training.

b. Exclusive Space in Terminal Building. LESSEE shall have the right to the exclusive use of the space consisting of 985 square feet, more or less, in the Terminal Building, as designated on Exhibit "B." LESSEE shall have the option of taking exclusive use of additional space in any new administration building or passenger terminal building which LESSOR may construct during the term hereof, said space to be mutually agreed upon between LESSOR and LESSEE for such uses as LESSEE finds necessary to its operation of an air transportation system. LESSEE's rights hereunder shall include, without limitation, the right to use the Premises demised hereunder for the sale of tickets, manifesting of passengers and cargo, handling of mail, baggage and cargo, and the operation of a traffic, operation and communications office.

c. Nonexclusive Space in Terminal Building. LESSEE shall have the right to the nonexclusive use, in common with others similarly authorized, of the space consisting of 860 square feet, more or less, in the Terminal Building, as designated on Exhibit "B." LESSEE, its employees, passengers, guests, patrons and invitees shall also have the use, in common with others similarly authorized, of any public space now available in the Terminal Building, or which may hereafter be made available, including, but not limited to, waiting rooms, restrooms and auto parking space adjacent to the Terminal Building.

d. Miscellaneous Rights of LESSEE included but not by Way of Limitation. LESSEE shall have (1) the right of complete ingress and egress to and from the Premises for LESSEE, its employees, passengers, guests, patrons, invitees, suppliers of materials and furnishers of service; (2) the right to purchase or otherwise obtain property, facilities or services deemed by LESSEE to be required by, or incident to its operations from any persons or organizations it may choose; (3) except as herein otherwise specifically provided, the right to use the AIRPORT and appurtenances free of any charges or fees by LESSOR of any nature, direct or indirect, or any discriminatory restrictions by LESSOR against LESSEE or its suppliers or contractors of property, facilities or services, for the privilege of using the AIRPORT and Premises and appurtenances including, without limitation, the privilege of purchasing, selling, using, storing, withdrawing, handling, consuming, loading, unloading, or delivering any such property or of transporting the same to, from, or on the Airport; and (4) the right to recover from LESSOR any taxes, or special assessments upon the leased Premises of an unusual or discriminatory nature, which LESSEE may be required to pay LESSOR during the term of this Agreement and which are not anticipated at the time of the execution of this Agreement. LESSEE shall also have the right to install, at LESSEE's expense, identifying signs on LESSEE's exclusive space in the Terminal Building, the number, type, size, design, and location of all such signs is to be subject to the prior written approval of the AIRPORT Manager, such approval not to be arbitrarily withheld, conditioned or delayed.

2. TERM. This Agreement shall run and be in full force and effect for a period of three (3) years commencing June 1, 2021 and ending May 31, 2024.

3. RENTALS AND FEES: LESSEE agrees to pay to LESSOR for the use of the Premises, facilities, rights, licenses, services and privileges granted hereunder, rentals, fees and charges (there being no other rentals, fees or charges, and no tolls payable by LESSEE unless otherwise specifically provided herein) according to terms specified in Exhibit A, attached hereto, of this Agreement and made a part hereof.

4. ADDITIONAL REPORTS: In the event that LESSOR or any of its agencies or instrumentalities shall, during the term of this Agreement or any extension or renewal thereof, own or operate one or more airports in the vicinity of the City of Joplin, Missouri, in addition to or in lieu of the AIRPORT, LESSEE shall have the option, by giving written notice to the LESSOR, to lease from LESSOR with respect to said additional airport or airports (subject to the same terms and conditions as are provided in this Agreement) exclusive space up to an amount equal to that provided in this Agreement with respect to the AIRPORT, and other premises, facilities, rights, licenses, services and privileges comparable with those provided herein, the rentals, fees and charges for such space, premises, facilities, rights, licenses, services and privileges not to exceed those provided herein. In the event LESSOR mandates LESSEE's relocation, LESSOR shall reimburse LESSEE for all its reasonable and customary relocation expenses. Both parties agrees that such reimbursement will take

the form of rent credits associates with this Agreement.

5. MAINTENANCE OF AIRPORT BY LESSOR: LESSOR shall operate, maintain and keep in good repair the AIRPORT, Terminal Building, and all appurtenances, facilities, and services now or hereafter connected with the foregoing, and shall maintain and operate the AIRPORT in all respects in a manner at least equal to the highest standards or ratings for airports of similar size and character issued by the Federal Aviation Administration. Without limiting the generality of the foregoing, the maintenance provided for herein shall include the keeping of runways, aprons, strips, and ramps free of snow and other obstructions insofar as reasonably possible. LESSEE shall maintain its office space in good repair, normal wear and tear, unavoidable incident, and fire excepted. LESSEE shall not be obligated to repair any damages to Premises because of structural defects in the Terminal Building; nor shall LESSEE be required to make any repairs, which repairs were not occasioned by damage caused by LESSEE.

6. BUILDING BY LESSEE: LESSEE, at its own expense, may construct, install, alter, modify, repair, and maintain in or on any space, which is or may be exclusively leased by LESSEE hereunder, any buildings, structures or improvements, including equipment and above ground storage tanks that it shall determine to be necessary for use in connection with its business, subject to the approval of the Director of Public Works of the LESSOR, which approval shall not be unreasonably withheld, conditioned or delayed. No restrictions shall be placed upon LESSEE as to the architects, contractors or materialmen who may be employed by it in connection therewith, who shall have free ingress and egress to and from the said Premises. LESSOR, at its expense, shall bring or cause to be brought all public utility service up to the property line of all Premises leased hereunder on which buildings, structures and improvements have been, or may from time to time be, constructed or installed by LESSEE and LESSEE shall have the right to make connection therewith. When this Agreement is terminated, at LESSOR's sole discretion, any such improvements shall become the property of LESSOR with no compensation of any kind owed to LESSEE, or any such improvements shall be removed by LESSEE at LESSEE's sole expense within thirty (30) days of termination.

7. NONLIABILITY: LESSOR shall not be liable to LESSEE for any loss of revenue to LESSEE resulting from LESSOR'S reasonable acts or omissions in the maintenance of the AIRPORT and its facilities or providing same with utility services. If LESSOR neglects its maintenance of the AIRPORT and its facilities or providing same with utility services, LESSEE may terminate this Agreement by providing written notice to LESSOR and rent will be payable only to the date of said termination. If this Agreement is not so terminated, it shall continue and the rent payable hereunder shall be assessed pro rata based upon the proportion of the Premises which remain maintained in good order until the Premises shall be maintained in a reasonable manner LESSOR shall not be required to perform maintenance and make repairs occasioned by the negligence of LESSEE or its employees, agents, passengers, guests, patrons, invitees, or licensees. If LESSEE shall fail to do anything required to be done by it under the terms of this Agreement, LESSOR may at its sole option, after giving sixty (60) calendar days' written notice to LESSEE, do such act or thing on behalf of LESSEE, and upon notification to LESSEE of the cost thereof (including overhead) by LESSOR, LESSEE shall promptly pay LESSOR the amount of that cost.

8. TRASH AND GARBAGE: LESSOR shall provide and use suitable covered metal receptacles for all garbage, trash, and other refuse on or in connection with the leased Premises. Piling of boxes, cartons, barrels or other similar items in an unsafe or unsightly manner in or on the leased Premises shall not be permitted.

9. LIABILITY: LESSEE agrees to save and keep LESSOR harmless from any and all liability, injury or damage due to the negligence of LESSEE or any of its employees or agents resulting from the use and occupancy of said Premises by said LESSEE; provided, however, that LESSEE shall not be liable for any injuries to or death of persons, or damage to property or loss occasioned by the negligence or willful misconduct of LESSOR, its officials, officers, employees or agents, and that LESSEE shall not be liable for loss and/or damage to LESSOR's property caused by fire or anything covered by an extended coverage endorsement, including vandalism and/or malicious mischief. LESSOR agrees to save and keep LESSEE harmless from any and all liability, injury or damage due to the negligence of LESSOR or any of its employees or agents resulting from the use and occupancy of said Premises by said LESSOR; provided, however, that LESSOR shall not be liable for any injuries to or death of persons, or damage to property or loss occasioned by the negligence or willful misconduct of LESSEE, its officials, officers, employees or agents.

i) DAMAGE OR DESTRUCTION:

In the event the Premises covered by this Agreement are wholly or partially destroyed or damaged so as to render the whole or a substantial part thereof unfit for occupancy, and the same cannot be repaired with reasonable diligence within sixty (60) calendar days after the happening of such destruction or damage, then this Agreement at the option of the LESSEE or LESSOR, shall cease and terminate as of the date of such destruction or damage. Upon such termination, LESSOR shall repay to the LESSEE any rents theretofore paid by LESSEE with respect to any period subsequent to the date of such termination, and thereon LESSEE shall surrender possession of the Premises to LESSOR. If such destruction or damage can be repaired within sixty (60) calendar days, LESSOR shall forthwith repair the same with all reasonable diligence, and at its own expense, and this Agreement shall continue in force and effect. During the period of such repair, the rent shall be abated in the same ratio as that portion of the Premises which is rendered unfit for occupancy bears to the whole.

- A. Insurance. LESSEE, at its expense, shall procure and keep in force at all times during the term of this Agreement from a financially sound and reputable company that has an A.M. Best Company rating of at least an "A-" rating, or similar rating by another insurance rating company, and is and authorized to conduct business and pay claims in the State of Missouri, comprehensive general liability insurance, with independent contractor's coverage and contractual liability endorsement, including but not limited to aircraft liability, airport premises liability, and automobile liability coverage insuring LESSEE, the City of Joplin, and the Airport for bodily injury and property damage, and such other insurance necessary to protect Airport from all such claims and actions described in the preceding subsection. Without limiting its liability, LESSEE agrees to carry and keep in force insurance with single limit liability for bodily injury or death and property damage in a sum not less than \$1,000,000.00 per person and \$2,500,000.00 per occurrence
- B. LESSEE shall furnish current certificates of insurance to LESSOR and LESSOR shall furnish current certificates of insurance to LESSEE as regards fire or extended coverage endorsements, including vandalism and/or malicious mischief. Said insurance policies shall not be canceled or materially modified or non-renewed except upon thirty (30) calendar days advance written notice to Airport (ten (10)

calendar days' notice for non-payment of premium). The insurance carrier shall not avoid liability under such policies by claiming Airport governmental immunity. Airport shall be a named additional insured upon all such policies, but shall have no obligation for the payment of any premiums for such coverage. In the event the scope of the Airport's tort liability as a governmental entity described in Section 537.600 through .650, RSMo., inclusive, is broadened or increased during the term of this Agreement by subsequent legislative or court action, Airport, upon written notice to LESSEE, may require LESSEE to provide additional coverage sufficient to protect the Airport and the City of Joplin's interests to the extent of any such change. If the Airport's current limitations upon tort liability are abolished entirely, Airport may require LESSEE to provide such coverage to protect the Airport and the City of Joplin's interests as may be reasonable and prudent for the risks associated with the activities allowed under this Agreement. Statutory Workers' Compensation required by the Labor Code of the State of Missouri and Employers' Liability Insurance in an amount not less than \$1,000,000 per occurrence. Both the Workers' Compensation and Employers' Liability policies shall contain the insurer's waiver of subrogation in favor of City of Joplin/Joplin Regional Airport, its elected officials, officers, employees, agents and volunteers;

- C. Non-limitation. Nothing contained herein shall be deemed to limit or otherwise reduce either Party to indemnify, protect, defend and hold harmless the other Party as specified in this Agreement.
- D. Independent Contractor. Nothing herein contained nor any acts of the parties hereto shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent or of partnership or of joint venture between the Parties hereto, it being understood and agreed that the relationship between the Parties hereto is that of landlord and tenant.

10. CANCELLATION BY LESSOR: LESSOR may cancel this Agreement by giving LESSEE thirty (30) calendar days' advance written notice, upon or after the happening of any of the following events:

The filing by LESSEE of a voluntary petition in bankruptcy; the adjudication of LESSEE as a bankrupt pursuant to such proceedings; the appointment of a receiver of LESSEE's assets; the divestiture of LESSEE's estate herein by other operations of law; the abandonment by LESSEE of its conduct of air transportation at the AIRPORT; the default by LESSEE in the performance of any covenant or agreement herein required to be performed by LESSEE and the failure of LESSEE to remedy such default for a period of thirty (30) calendar days after receipt from LESSOR of written notice to remedy the same; provided, however, that no notice of cancellation, as above provided, shall be of any force or effect if LESSEE shall have remedied the default prior to receipt of LESSOR's notice of cancellation, or if such default cannot be cured within such thirty (30) day period and LESSEE has in good faith commenced and is attempting to remedy same, provided LESSEE promptly remedies such default thereafter.

No waiver of default by LESSOR of any of the terms or conditions hereof to be performed, kept and observed by LESSEE, shall be construed to be or act as a waiver of any

subsequent default of any of the terms and conditions herein contained to be performed, kept and observed by LESSEE.

11. CANCELLATION BY LESSEE: LESSEE, in addition to any other rights of cancellation given herein or by law, may cancel this Agreement in whole or in part (only insofar as it relates to any buildings) and terminate all or any of its obligations hereunder at any time that LESSEE is not in default in its payments to LESSOR, hereunder, by giving LESSOR thirty (30) calendar days' advance written notice, upon or after the happening of any one of the following events:

- a) the order or the action of the Federal Aviation Administration terminating, suspending, or relieving LESSEE's right or obligations to operate into and from the AIRPORT;
- b) the termination of LESSEE's obligation or right (imposed by contract or otherwise) to the Federal Government for the carriage of United States airmail to, from, or through the Joplin, Missouri area or its environs, for the receiving and dispatching of United States airmail;
- c) the expiration or termination of any Essential Air Service (EAS) contract (the "EAS Contract") between LESSEE and the United States Department of Transportation (DOT) or any governmental agency succeeding to the jurisdiction of the DOT, whether terminated by LESSEE or DOT, under which EAS Contract LESSEE has or had agreed to provide Essential Air Services to THE CITY OF JOPLIN, Missouri, the LESSOR agrees that LESSEE is exempt from the requirement at 49 U.S.C. Section 41734(c), to continue to serve the EAS community even after filing a notice to suspend service before a replacement airline begins full EAS;
- d) authorization by the Federal Aviation Administration of another airport for service by LESSEE to Joplin, Missouri;
- e) issuance by any court of competent jurisdiction of any injunction in any way preventing or restraining the use of the AIRPORT or any part thereof for AIRPORT purposes, and the remaining in force of such injunction for a period of at least thirty (30) days;
- f) any action of the Federal Aviation Administration refusing to permit LESSEE to operate into, from or through the AIRPORT such aircraft as LESSEE may reasonably desire to operate thereon;
- g) the breach by LESSOR of any of the covenants or agreements herein contained and the failure of LESSOR to remedy such breach for a period of thirty (30) calendar days after receipt of a written notice of the existence of such breach; the inability of LESSEE to use said Premises and facilities continuing for a period of thirty (30) days or more due to (i) any deficiency of the AIRPORT or unsafe condition for operating at the AIRPORT of the type of aircraft then being flown by LESSEE or (ii) any law, order, rule, or regulation of any appropriate governmental authority having jurisdiction over the operations of LESSEE (iii) or war, or other casualty; the assumption by the United States Government or any authorized agency thereof of the operations of the AIRPORT;
- h) the erection of any obstacle on or in the vicinity of the AIRPORT, which would occasion a modification of LESSEE's air carrier operating certificate or similar authorization establishing minimum safety standards for the operation of LESSEE.

No waiver of default by LESSEE of any of the terms, covenants or conditions hereof to be performed, kept and observed by LESSOR shall be construed to be or act as a waiver by

LESSEE of any subsequent default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by LESSOR.

12. FAVORED TERMS: Except as provided for under the conditions of an approved air service development program, LESSOR agrees not to enter into any lease, license, contract or other agreement with any other 14 CFR Part 121 scheduled air carrier containing more favorable terms than this Agreement (including its methodology of establishing rates, fees and charges) or to grant to such scheduled air carrier rights or privileges with respect to the AIRPORT that are not accorded to LESSEE hereunder unless the same rights, terms and privileges are concurrently made available to LESSEE. Any scheduled air carrier will be required to lease counter and office space sufficient to support their operation. The foregoing notwithstanding, LESSOR may offer alternate terms to a carrier operating under 14 CFR Part 135, or as a public charter under 14 CFR Chapter II, Subchapter D, Part 380 so long as such charter operates less than once per week.

13. QUIET ENJOYMENT: LESSOR represents that it has the right to lease the AIRPORT, together with the facilities, rights, licenses and privileges herein granted, and has full power and authority to enter into this Agreement in respect thereof. LESSOR agrees that on payment of the rent and performance of the covenants and agreements hereunder by LESSEE, LESSEE shall peacefully have and enjoy the leased Premises and all rights and privileges of the AIRPORT, its appurtenances and facilities.

14. REGULATIONS: LESSEE agrees to observe and obey all reasonable regulations imposed by LESSOR during the term hereof, provided the same are consistent with safety and security and do not conflict with the regulations and procedures prescribed by the Federal Aviation Administration for operations of LESSEE's aircraft at the AIRPORT and further provided same do not conflict with the express terms of this Agreement.

15. LEGAL RESPONSIBILITY: Intentionally omitted.

16. NOTICES: All notices or other communications relative to matters covered by this Agreement shall be deemed to be properly served if sent by certified mail to the last address previously furnished by the parties hereto. Until hereafter changed by a party by notice in writing to the other party, notices shall be sent to LESSOR addressed to the Public Works Director, 602 South Main Street, Joplin, Missouri, 64801, and to LESSEE addressed to: SKYWEST AIRLINES, Attn: Kelly Lane, 444 S.River Rd St.George, Utah 84790.

17. ASSIGNMENT OF AGREEMENT: LESSEE shall not assign this Agreement or any of its rights hereunder, nor sublet the Premises or any part thereof demised hereby, to any person without the written consent of the LESSOR first had and obtained (such consent not to be unreasonably withheld, conditioned or delayed); provided that the foregoing shall not prevent the assignment of this Agreement to any corporation with which LESSEE may merge or consolidate, or which may succeed to the business of LESSEE, or, to which the business and properties of the LESSEE or substantially all of the same may be sold or transferred by the LESSEE.

18. NONDISCRIMINATION:

a. The LESSEE, for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a

covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this Agreement for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

b. The LESSEE, for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:

(1) No person on the grounds of race, creed, color, national origin or sex shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in use of said facilities.

(2) That in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, creed, color, national origin or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination.

(3) That the LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

19. **AFFIRMATIVE ACTION:** The LESSEE assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The LESSEE assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The LESSEE assures that it will require that its covered sub-organizations provide assurances to the LESSEE that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

20. **EXCLUSIVE RIGHT:**

a. It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of 49 U.S.C. § 40103(e).

b. LESSEE agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, that LESSEE may make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

21. **INVALID PROVISION:** It is further expressly understood and agreed by and between the parties hereto that in the event of any covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant,

condition or provision shall in no way affect any other covenant, condition or provision herein contained; provided, however, that the invalidity of any such covenant, condition or provision does not materially prejudice either the LESSOR or the LESSEE in their respective rights and obligations contained in the valid covenants, conditions or provisions in the Agreement.

22. CHOICE OF LAW: This Agreement has been made, and its validity, performance and effect shall be determined, in accordance with the laws of the State of Missouri and venue for litigation between the parties shall be solely and exclusively in Jasper County, Missouri, or the United States District Court for the Western District of Missouri.

23. HEADINGS: The headings of paragraphs in this Agreement are for convenience only. The headings form no part of this Agreement and shall not affect its interpretation.

24. ENTIRE AGREEMENT: This Agreement (including any Exhibits) contains the entire understanding of the parties with respect to the subject matter hereof. It may not be altered or amended except by an agreement in writing signed by both parties.

25. WAIVER OR BREACH: Waiver of any provision of this Agreement or breach of this Agreement shall not thereafter be deemed to be a consent by the waiving party to any further waiver, modification or breach by the other party, whether new or continuing, of the same or any other covenant, condition or provision of this Agreement. Failure by one of the parties to this Agreement to assert its rights for any breach of this Agreement shall not be deemed a waiver of such rights.

26. REPRESENTATIONS: The signatories hereto represent and warrant that they are fully authorized in the capacities shown and that they are executing the same voluntarily and solely for the consideration described herein.

27. COUNTERPARTS: This Agreement may be executed in any number of counterparts, and each executer counterpart shall have the same force and effect as an original instrument and as if all of the parties to the counterparts had signed the same instrument. A signature page of any counterpart may be detached therefrom without impairing the legal effect of the other signature(s), if that signature page is attached to any other counterpart that is identical to the first except for having additional attached signature pages executed by other parties to this Agreement.

[signatures next page]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

SKYWEST AIRLINES

CITY OF JOPLIN, MISSOURI

By: _____

By: _____
Nicholas Edwards, City Manager

ATTEST:

ATTEST:

By: _____

By: _____

(Print Name)

Barbara Golhoffer, City Clerk

APPROVED AS TO FORM:

By: _____
Peter Edwards, City Attorney

STATE OF _____)
)
COUNTY OF _____)

On this _____ day of _____, 2021, before me, personally appeared _____, to me known to be the person described in and who acknowledges that he/she, as President of _____, executed the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal in my office in _____, _____, the day and year last above written.

Notary

My Commission Expires:

STATE OF MISSOURI)
)
COUNTY OF JASPER)

On this _____ day of _____, 2021, before me personally appeared Dan Pekarek and to me personally known who being by me duly sworn did state that he is the City Manager of the City of Joplin, Missouri, that the seal affixed to the foregoing instrument is the Corporate Seal of said Corporation, and that said instrument was signed on behalf of said corporation by authority of its City Council pursuant to Ordinance No. _____, passed by the City Council of the City of Joplin, Missouri on _____ for the consideration stated therein and no other, and the said City Manager acknowledges said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid the day and year first above written.

Notary

My Commission Expires: _____

EXHIBIT "A"
RENTAL FEES

1. The right to the exclusive use of approximately 985 square feet of ticket counter and office space in the Terminal Building located on the AIRPORT.

LESSEE agrees to pay to LESSOR for the use of 985 square feet of exclusive space located on the first floor of the Terminal Building, from June 1, 2021 to May 31, 2024, the sum of \$14.85 per square foot per annum in monthly installments, covering the preceding fiscal month.

2. The right to the nonexclusive use of 860 square feet of operational and baggage space in the Terminal Building located on the AIRPORT.

LESSEE agrees to pay to LESSOR for the use of 860 square feet of nonexclusive space indicated above, from June 1, 2021 to May 31, 2024, the sum of \$7.50 per square foot per annum in monthly installments, covering the preceding fiscal month.

3. As rental fees and charges for the use of the AIRPORT facilities herein granted, other than those specified above and including the operation of aircraft into, upon and from the AIRPORT, LESSEE shall pay to LESSOR the following charges:

a. From June 1, 2021 to May 3, 2024, the LESSEE shall pay forty-two (\$.42) cents per thousand pounds of maximum gross landing weight over 12,500 pounds on all landings made by an aircraft being used by LESSEE ("Landing Fee"), subject to a minimum Landing Fee of \$7.00 per landing.

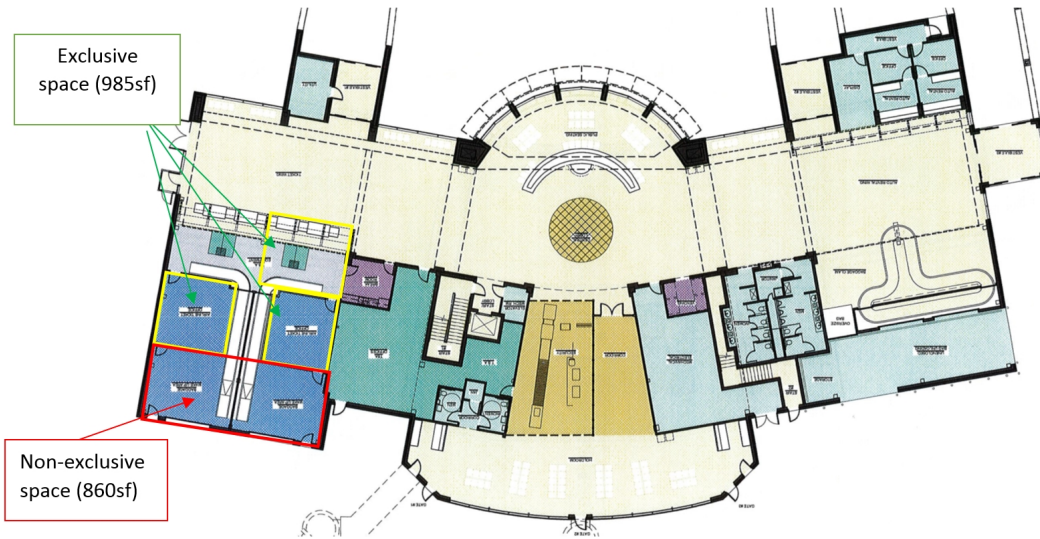
b. From June 1, 2021 to May 31, 2024, the LESSEE shall pay, in addition to the Landing Fee set forth above, fifty dollars (\$50.00) per landing made by an aircraft being used by LESSEE to help cover the cost of Aircraft Rescue and Firefighting (ARFF) services and AIRPORT security (the "ARFF/Security Fee"). Notwithstanding anything to the contrary contained in the Agreement, including this Exhibit "A", if another 14 CFR Part 121 scheduled air carrier begins operations at the AIRPORT after the Effective Date, the ARFF/Security Fee shall thereupon be reduced to equitably spread the cost of providing such ARFF services and AIRPORT security among all 14 CFR Part 121 scheduled air carriers operating at the AIRPORT.

c. A list of all landings and the specified maximum gross landing weight of the aircraft making such landings shall be submitted to the AIRPORT Manager's Office by the fifth (5th) day of each month, for all landings made during the preceding month. The maximum gross landing weight for aircraft, as used herein, shall be the maximum gross landing weight for such aircraft as determined by the Federal Aviation Administration.

d. All such charges shall be payable in monthly installments covering the

preceding fiscal month. LESSOR shall, on or before the tenth (10th) day of each month, transmit to LESSEE a statement of the rentals, fees and charges incurred by LESSEE during the previous month, and the same shall be paid by LESSEE prior to the first day of the following month.

EXHIBIT "B"
EXCLUSIVE and NONEXCLUSIVE SPACE



COUNCIL BILL NO. 2021-124

ORDINANCE NO.

AN ORDINANCE authorizing an agreement by and between the City of Joplin and SkyWest Airlines, Inc., to establish operational guidelines and fees in the Commercial Terminal at the Joplin Regional Airport; authorizing the City Manager to execute the same by and on behalf of the City of Joplin.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That an agreement by and between the City of Joplin and SkyWest Airlines, Inc., for the purpose of establishing operational guidelines and fees in the Commercial Terminal at the Joplin Regional Airport; a true and accurate copy of said agreement being attached hereto and incorporated herein, Exhibit A; is hereby approved.

Section 2. That the City Manager or his Designee is hereby authorized and directed to execute said Agreement by and on behalf of the City of Joplin, Missouri.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2021, by a _____ vote.

Ryan D. Stanley, Mayor

ATTEST:

Barbara J. Gollhoffer, City Clerk

APPROVED AS TO FORM:

Peter C. Edwards, City Attorney