



City of Green River
City Council Meeting
Agenda Documentation

Preparation Date: 07/13/16	Department: Finance
Meeting Date: 08/01/16	Department Head: Chris Meats
	Presenter: Chris Meats

Subject:

Approval of the Enhanced Air Service Cooperative Agreement with the City of Rock Springs and Sweetwater County

Background/Alternatives:

The City of Green River has entered into similar agreement with Sweetwater County and the City of Rock Springs over the past several years. The City's share of this agreement is 22% of the total billing, or \$130,439.

Attachments:

Agreement & Grant Agreement between WYDOT and the County

Fiscal Impact:

\$130,439

Staff Impact:

n/a

Legal Review:

Pending

Suggested Motion:

I move to approve the Airport Subsidy Agreement with Sweetwater County and the City of Rock Springs for Green River's share in the amount of \$130,439.

AIR SERVICE ENHANCEMENT PROGRAM COOPERATIVE AGREEMENT

This Agreement is entered into by and between SWEETWATER COUNTY, hereinafter referred to as "County", whose address is 80 West Flaming Gorge Way, Suite 150, Green River, WY 82935, CITY OF GREEN RIVER, a Wyoming Municipal Corporation whose address is 50 East 2nd Street, Green River, WY 82935, and CITY OF ROCK SPRINGS, a Wyoming Municipal Corporation whose address is 212 D Street, Rock Springs, WY 82901, collectively referred to as "Co-Sponsors".

RECITALS

WHEREAS, the Parties hereto understand and agree that reliable and enhanced commercial air service at the Rock Springs – Sweetwater County Airport as provided by Wyoming Statute § 10-3-601 et seq., provides a benefit and advantage to the County, Co-sponsors, the traveling public, and the citizens of Rock Springs, Green River, and Sweetwater County; and,

WHEREAS, the Parties hereto understand and agree that each of them bears responsibility for providing the funding necessary to perpetuate the program.

NOW, THEREFORE, in support of their mutual covenants and the exchange of consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

I. THE PROGRAM

The program will consist of enhanced service through SkyWest Airlines who shall provide scheduled service between Rock Springs and Denver. Service will be provided with Canadair Regional Jet, CRJ-200 equipment.

SkyWest Airlines has full discretion in setting the schedule times and frequency of its flights, save that it will schedule no less than thirteen (13) roundtrips per week and one roundtrip per day, excluding major holidays and airport construction events. Such decisions will be based upon, but not limited to, aircraft, staff, crew, gate availability, demand, business necessity and weather and seasonal changes. Flights will be scheduled by SkyWest Airlines at reasonable times and will be posted in advance. Flight schedules are subject to change.

II. TERMS OF AGREEMENT

The purpose of this Agreement is to provide for the funding of air service enhancement, as defined in Wyo. Stat. § 10-3-601 et seq., from Denver, Colorado to Rock Springs, Wyoming. By contract between the County and WYDOT, WYDOT has represented that SkyWest Airlines has assured that there shall be scheduled air service instituted and continued between Rock Springs, Wyoming (RKS) and Denver, Colorado (DEN), (the "Service"), for the fiscal year July 1, 2016 through June 30, 2017 ("Service Period"). Said contract between County and WYDOT is attached hereto as "EXHIBIT A" and is specifically incorporated herein by reference.

III. RESPONSIBILITIES OF CO-SPONSORS DURING THE SERVICE PERIOD

Monthly invoices will be received by WYDOT and County from SkyWest Airlines with a daily summary of load factors, number of revenue and non-revenue passengers using the service, flight completion information, on time performance, and all other relevant data concerning flight operations for the Service. At the end of each quarter an invoice will be sent to WYDOT. WYDOT will review and approve invoices prior to invoices being submitted to the County. The County will then provide this invoice to the Co-Sponsors. Co-Sponsors shall pay full amount due to the County within 30 days of the submission of the invoice.

IV. REIMBURSEMENT

SkyWest Airlines completes its accounting for each month approximately two to three weeks after the close of the month. Soon after this occurs, a statement will be sent to the County which shall show the final revenues and costs for the preceding calendar month. The statement will show all calculations for the subsidy, including a revenue and costs. Each quarter the amounts will be summarized with the total costs (non-fuel and fuel costs) and revenues in an invoice.

At the end of the Service Period, SkyWest Airlines shall prepare a report to the County showing total revenues, and total costs for the Service Period. County shall be responsible for payment of thirty-six point seventy-five Percent (36.75%) of the total monthly subsidy submitted each quarter, with a total maximum exposure of five hundred ninety-two thousand nine hundred three dollars (\$592,903). The Co-Sponsors hereby agree to reimburse the County for their proportionate shares of the total monthly subsidy based on the airline revenue for that quarter, less previous payments, as set forth below, within thirty days after billing. Invoices will be submitted to each Co-Sponsor with calculations already completed and totals due to the County. The percentages set forth below shall reflect that portion of the total invoice for which each Co-Sponsor is responsible. Billing will occur at the completion of each quarter, unless otherwise agreed upon between the parties. County and Co-Sponsors shall pay as follows:

- A. County shall be responsible for forty-five percent (45%) of the total quarterly invoice. The maximum exposure for the County for Service Period shall be no more than two hundred sixty-six thousand eight hundred six dollars (\$266,806).
- B. The City of Green River shall pay twenty-two percent (22%) of the total quarterly invoice. The maximum exposure for the City of Green River for Service Period shall be no more than one hundred thirty thousand four hundred thirty-nine dollars (\$130,439).
- C. The City of Rock Springs shall pay thirty-three percent (33%) of the total quarterly invoice. The maximum exposure for the City of Rock Springs for the Service Period shall be no more than one hundred ninety-five thousand six hundred fifty-eight dollars (\$195,658).

V. GENERAL PROVISIONS

- A. To the extent required by any state or federal law, the Co-Sponsors shall be bound as though they were a "Sponsor" by the terms of the Agreement between County and WYDOT, attached hereto as "EXHIBIT A" as if those provisions were fully set forth herein.

- B. Any Party may request changes to this Agreement. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by and between the Parties to this Agreement shall be incorporated by written instrument, executed and signed by all parties to this Agreement.
- C. The County and Co-Sponsors shall provide free access to any pertinent books, documents and papers to each other, the State of Wyoming, or any of their duly authorized representatives for the purpose of inspection, audit and copying. The parties hereto shall keep copies of these records for at least three years after final payment and settlement.
- D. The Parties hereto shall keep informed of and comply with all applicable Federal, State, and Local laws and regulations in the performance of this Agreement.
- E. This Agreement, consisting of four pages and "EXHIBIT A", represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.
- F. Each Party is responsible for its own acts and omissions and the result thereof to the extent provided by law.
- G. All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail or delivery in person.
- H. Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of this Agreement shall continue in full force and effect, and either Party may renegotiate the terms affected by the severance.
- I. The Parties hereto do not intend to create in any other individual or entity the status of third Party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.
- J. The terms of this Agreement, and any amendments thereto, shall be binding upon and inure to the Parties hereto, their administrators and successors.
- K. The Parties do not waive governmental immunity. Each Party specifically retains all immunities and defenses available to them as governmental entities pursuant to Wyoming Statute § 1-39-101, et seq., and all other applicable law. The Parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either Party, except that any ambiguity as to immunity shall be construed in favor of immunity.

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IN WITNESS HEREOF, the Parties to this Agreement, either personally by and through their duly authorized representatives have executed this Agreement on the date set forth below and certify that they have read, understood, and agreed to the terms and conditions of this Agreement.

The effective date of this Agreement is the date last signed and executed by the duly authorized representatives of the parties to this Agreement, below.

ATTEST:

SWEETWATER COUNTY BOARD OF
COUNTY COMMISSIONERS

County Clerk

By: _____
Wally J. Johnson, Chairman

Date

ATTEST:

CITY OF GREEN RIVER

City Clerk

By: _____
Pete Rust, Mayor

Date

ATTEST:

CITY OF ROCK SPRINGS

City Clerk

By: _____
Carl Demshar, Mayor

Date

JJS
7-8-16

EXHIBIT A

GRANT AGREEMENT
BETWEEN THE
WYOMING DEPARTMENT OF TRANSPORTATION
AND
THE SWEETWATER COUNTY COMMISSION

Project Number: ASRKS05

Contract Period: July 1, 2016 – June 30, 2017

- 1. Parties.** The parties to this agreement are the WYOMING DEPARTMENT OF TRANSPORTATION, hereinafter referred to as "WYDOT", whose address is 5300 Bishop Blvd., Cheyenne, WY 82009 and the SWEETWATER COUNTY COMMISSION, hereinafter referred to as "Sponsor," whose address is 80 West Flaming Gorge Way, Suite 109, Green River, WY 82935.
- 2. Purpose.** The Sponsor desires to participate in the Air Service Enhancement Program administered by WYDOT to provide enhanced air service as defined in Wyo. Stat. Ann. §10-3-601 et seq. through SkyWest Airlines, hereinafter referred to as "Airline," from Rock Springs, Wyoming (RKS) to Denver, CO (DEN). The level of scheduled air service, defined as flights scheduled and performed for remuneration in accordance with a published timetable or so regular or frequent as to constitute a recognizably systematic series which are open to booking members of the public, shall be thirteen (13) round trips per week scheduled to optimize bank times to United Airlines at DEN, hereinafter referred to as the "Service." The Airline will provide service with Canadair Regional Jet (CRJ200) aircraft with 50 seats.
- 3. Terms of Agreement.** The service from RKS to DEN shall take place from July 1, 2016 through June 30, 2017, hereinafter referred to as the "Service Period." The Sponsor will assure, by contract with the Airline, that there is scheduled air service instituted and continued RKS and DEN during the Service Period.
- 4. Calculation of Reimbursable Expenses.** The total invoiced due amount shall be calculated as the sum of fuel costs and non-fuel costs subtracted from the total revenue for the calendar month. Non-fuel costs shall be calculated by multiplying the block hours associated with the market by the cost per hourly rate of two thousand, five hundred and fifty nine dollars (\$2,559) for the CRJ200 block hours operated between RKS and DEN, as was negotiated between the Sponsor and the Airline. The block hour rate includes a 10% profit margin. The Sponsor agrees to pay thirty six point seven five percent (36.75%) of the total monthly bill submitted each quarter with a maximum dollar amount of five hundred, ninety two thousand, nine hundred and three dollars (\$592,903) for the length of the service period. To the extent the Airlines' revenues for a quarter were greater than the total costs plus profit margin, WYDOT shall have no monthly payment obligation to the Sponsor for the period. Assuming all criteria above are met, WYDOT's

financial commitment to this service, through the Sponsor shall be a state match of sixty three point five percent (63.25%) of the total payment submitted each quarter with a maximum dollar amount of one million, three hundred twenty thousand, four hundred and thirty eight dollars (\$1,020,438).

5. Responsibilities of the Sponsor

- a. The Sponsor shall ensure monthly statements and quarterly invoices will be prepared and sent to WYDOT with a summary of revenue, fuel and non-fuel related costs, load factors, number of revenue and non-revenue passengers using the Service, flight completion information, on-time performance, and all other relevant data concerning flight operations for the Service.
- b. At the end of the service period, the Sponsor shall ensure through contract that the Airline prepare a report showing total revenues, costs, and margin for the service period.
- c. The Sponsor will pay the full invoiced amount to the Airline within 45 days of receipt of invoice in accordance with Wyo. Stat. 16-6-602.
- d. The Sponsor shall execute and maintain the marketing and promotional plan for the Service as outlined by the Sponsor in Attachment A, which is attached to and made part of this Agreement by this reference.

6. Responsibilities of WYDOT

- a. If all criteria in accordance with Section 5 are met, WYDOT will review the invoices and pay the Sponsor in accordance with Section 4.

7. Default. If the Sponsor fails to pay any amount herein provided when the same shall become due and payable, WYDOT may terminate this Agreement and seek any other remedy allowed by law. Notwithstanding any such action, the Sponsor shall remain liable for the full performance of all obligations on its part to be performed under this Agreement.

8. General Provisions:

- a. **Amendments.** Either party may request changes in this Agreement. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by and between the parties to this Agreement shall be incorporated by written instrument, executed and signed by all parties to this Agreement.
- b. **Applicable Law and Venue.** The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties, and the venue shall be in the First Judicial District, Laramie County, Wyoming.
- c. **Assignment/Agreement Not Used as Collateral.** Neither party shall assign nor otherwise transfer any of the rights or delegate any of the duties set forth in this Agreement without the prior written consent of the other party.

- d. **Audit/Access to Records.** WYDOT and its representatives shall have access to any books, documents, papers, electronic data and records pertinent to this agreement. The Sponsor shall keep copies of these records for at least three years after final payment and settlement.
- e. **Availability of Funds.** Each payment obligation of WYDOT is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services, this Agreement may be terminated by WYDOT at the end of the period for which the funds are available. WYDOT will notify the Sponsor at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to WYDOT in the event this provision is exercised, and WYDOT will not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit WYDOT to terminate this Agreement in order to acquire similar services from another party.
- f. **Compliance with Law.** The Sponsor shall keep informed of and comply with all applicable, Federal, State and Local laws and regulations in the performance of this Agreement.
- g. **Entirety of Agreement.** This Agreement, consisting of five (5) pages, Attachment A, Sponsor Outline of Marketing and Promotion, consisting of three (3) pages, represents the entire and integrated Agreement between the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.
- h. **Indemnification.**
Each party to this Contract shall assume the risk of any liability arising from its own conduct. Neither party agrees to insure, defend or indemnify the other. The liability of state agencies and state governmental entities is governed by Wyo. Stat. 1-39-101, *et seq.*
- i. **Nondiscrimination.** The Sponsor shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. 27-9-105, *et seq.*), the Americans with Disabilities Act (ADA), 42 U.S.C. 12101, *et seq.*, and the Age Discrimination Act of 1975. The Sponsor shall not discriminate against any individual on the grounds of age, sex, color, race, religion, national origin or disability in connection with the performance of this Agreement.
- j. **Notices.** All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by e-mail, regular mail or delivery in person.

- k. **Prior Approval.** This Agreement shall not be binding upon either party unless this Agreement is approved as to form by the Attorney General or his representative.
- l. **Severability.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of this Agreement shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.
- m. **Sovereign Immunity.** The State of Wyoming and WYDOT do not waive sovereign immunity by entering into this Agreement and the Sponsor does not waive governmental immunity. Each of them specifically retains all immunities and defenses available to them as sovereigns or governmental entities pursuant to Wyo. Stat. §1 39 101, *et seq.*, and all other applicable law. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to immunity shall be construed in favor of immunity.
- n. **Third Party Beneficiary Rights.** The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to this Agreement and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.
- o. **Independent Contractor.** The Sponsor is an independent contractor for the purpose of this Agreement, and shall not be considered an employee of the State of Wyoming for any purpose. The Sponsor shall assume sole responsibility for any debts or liabilities incurred by the Sponsor in fulfilling the terms of this Agreement, and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Agreement. Nothing in this Agreement shall be interpreted as authorizing the Sponsor or its agents and/or employees to act as an agent or representative for or on behalf of the State of Wyoming or WYDOT, or to incur any obligation of any kind on the behalf of the State of Wyoming or WYDOT. The Sponsor agrees that no health/hospitalization benefits, workers' compensation and/or similar benefits available to State of Wyoming employees will inure to the benefit of the Sponsor or the sponsor's agents and/or employees as a result of this Agreement.
- p. The terms of this Agreement, and any amendments thereto, shall be binding upon and inure to the parties hereto, their administrators and successors.

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9. **Signatures.** In witness whereof, the parties to this Agreement, either personally or through their duly authorized representatives, have executed this Agreement on the day and date set out below and certify that they have read, understood, and agreed to the terms and conditions of this Agreement.

The effective date of this Agreement is the day and date last signed and executed by the duly authorized representatives of the parties to this Agreement, below.

ATTEST:

Steve Dando
Sweetwater County Clerk

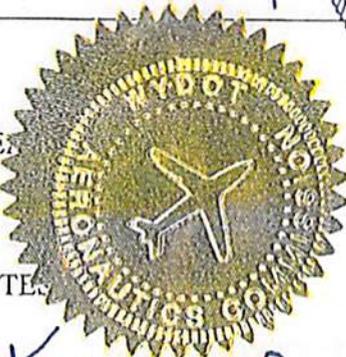


SWEETWATER COUNTY COMMISSION

[Signature]

6/28/16
Date

(SE)



ATTEST:

[Signature]
Secretary-Wyoming Aeronautics Commission

WYOMING DEPARTMENT OF
TRANSPORTATION

By: [Signature]
Dennis Byrne, Administrator

6/28/16
Date

Approved as to form:

By: [Signature]
Michael Kahler
Senior Assistant Attorney General
State of Wyoming

Date Prepared: 6/28/16

QPS
6-30-16

Attachment A: Sponsor Outline of Marketing and Promotion



Air Service Marketing Plan

INTRODUCTION

The Air Service Marketing Plan serves as a guidebook for Rock Springs-Sweetwater County Airport's air service marketing efforts.

By fully executing this plan, it is the intention of the Rock Springs-Sweetwater County Airport to provide affordable, reliable, and useable air service for our community. Additionally, the plan will outline how the airport will market the service to the region.

While this plan provides basic details, the Rock Springs-Sweetwater County Airport will be engaging with an Air Service Development Consulting firm to assist in not only securing the desired service and airfares, but also developing a solid marketing plan to increase our passenger retention.

MARKETING GOALS

There two primary goals of this marketing plan:

1. Provide Affordable, Reliable, and Useable Air Service to Southwestern Wyoming.
2. Increase passenger retention in RKS Catchment Area to 60%.

TARGET AUDIENCE

The Target Audience for this Marketing Plan will be all members of the communities that fall within our nine county Catchment Area. This includes the communities of:

Rock Springs	Pinedale	Big Piney
Green River	Farson	Kennerer
Evanston	Eden	Fort Bridger
Rawlins	Wamsutter	

As our ASD Consultant Completes a Market Study, we will better define our catchment area and target audiences so that we can maximize the ROI on every marketing dollar spent.

THE MESSAGE

This marketing plan will convey the message of reliable air service onboard a 50-seat regional jet that only requires 40 minutes to get to Denver where passengers can connect to over 170 destinations to the target audience. We will also work to educate the community on the true travel cost and lack of convenience when choosing SLC over RKS using our Cost Calculator on our new website (<http://rockspringsairport.com/flight-info/>).

As we work closer with SkyWest, we will also spread the message about fare sales as they occur. Should we be successful in securing more opportune flight schedules, primarily with our afternoon turn, we will convey the information within our message.

Should the ASD Market Study produce results that dictate a different message, we will modify the message to align with what will provide the best results.

METHODS OF COMMUNICATION

Rock Springs-Sweetwater County Airport will focus on a "grass roots, boots on the ground" marketing campaign. This effort will allow more personal interaction with the community and will be accomplished through public speaking engagements, event sponsorships where we can have a physical presence, airport tours, and a true grass roots mindset by all staff and Board Members.

This effort will be supplemented with communications via the following channels:

Print Media

Rocket Miner Newspaper
Pinedale Roundup Newspaper
Sublette Examiner Newspaper
Rawlins Daily Times Newspaper
Livability Magazine

Radio Media

WyoRadio Stations
Radio Network Stations

Online Media

SweetwaterNOW Online News
Wyo4News Online News
RKS Airport Website

Other Forms

Local Event Sponsorships
Local Presentations
Press Releases

STAFFING

The Rock Springs-Sweetwater County Airport will provide existing staff to better engage the community on all Air Service Development Opportunities. This staffing includes the Airport Manager, Airport Business Manager, and (7) Airport Operations Specialists.

To supplement these resources, the airport will also engage with an Air Service Development Consultant to provide relevant data, knowledge, and experience to secure

affordable air fares, useable flight schedules, and provide guidance on Marketing Opportunities.

FINANCIAL RESOURCES

The Rock Springs-Sweetwater County Airport intends to encumber nearly \$95,000 for Air Service Marketing Efforts. The airport will request a WYDOT Aeronautics Marketing Grant to cover 50% of this encumbrance. The funds will be used as follows:

Print Media	\$25,750
Online Media	\$9,500
Radio Media	\$23,750
Sponsorships	\$5,000
Creative Development	\$3,000
Promotional Giveaways	\$2,500
Air Service Development Market & Pricing Studies	\$15,000
Air Service Marketing Plan Development	\$12,500
TOTAL:	\$95,000

As our Market Study and Marketing Plan are developed, funds may be re-allocated to a more appropriate method of communication.

MEASUREMENT OF SUCCESS

As with any type of marketing plan, the most important part of the plan is to measure the success of the actions. It is the belief of the Rock Springs-Sweetwater County Airport that the goals as laid out above are not only realistic, but attainable. It is expected that we may not be able reach the specific retention rates entirely during the term of the proposed Minimum Revenue Guarantee. However, we expect the goal to be reached in due time with affordable airfares and useable flight schedules.

The Rock Springs-Sweetwater County Airport will measure success on a quarterly and annual basis and revise the marketing plan as needed based on the results.