

**IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI**

**A RESOLUTION** authorizing the County Executive to execute an Agreement with Mid America Regional Council (MARC) for the development of a regional energy strategy related to the Energy Efficiency Conservation Block grant (EECBG), at a total cost to the County not to exceed \$12,077.00.

**RESOLUTION #17163**, February 8, 2010

**INTRODUCED BY** James D. Tindall, County Legislator

WHEREAS, by Ordinance 4162, dated October 19, 2009, the legislature did authorize the appropriation of \$483,100.00 from the fund balance of the 2009 Grant Fund in acceptance of the Energy Efficiency Conservation Block grant awarded by the U.S. Department of Energy; and,

WHEREAS, the terms of the EECBG require the development of a regional strategy on energy efficiency and conservation; and,

WHEREAS, MARC has the ability to perform the development of a regional strategy on energy efficiency and conservation; and,

WHEREAS, the execution of this Agreement is in the best interests of the health, welfare, and safety of the citizens of Jackson County; now therefore,

**BE IT RESOLVED** by the County Legislature of Jackson County, Missouri, that the County

Executive be and hereby is authorized to execute an Agreement with Mid America Regional Council, in a form to be approved by the County Counselor; and,

BE IT FURTHER RESOLVED that the Director of Finance and Purchasing be and hereby is authorized to make all payments, including final payment on the agreement.

Effective Date: This Resolution shall be effective immediately upon its passage by a majority of the Legislature.

APPROVED AS TO FORM:

Pamela Zellin  
Deputy/Assistant County Counselor

[Signature]  
Acting County Counselor

Certificate of Passage

I hereby certify that the attached resolution, Resolution #17163 of February 8, 2010, was duly passed on February 16, 2010 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 8

Nays 0

Abstaining 0

Absent 1

2.16.10  
Date

Mary Jo Spino  
Mary Jo Spino, Clerk of Legislature

There is a balance otherwise unencumbered to the credit of the appropriation to which the expenditure is chargeable and there is a cash balance otherwise unencumbered in the treasury to the credit of the fund from which payment is to be made each sufficient to provide for the obligation herein authorized.

ACCOUNT NUMBER: 010 1225 56790  
ACCOUNT TITLE: Grant Fund  
Energy Efficiency Conservation Grant  
Other Contractual Services  
NOT TO EXCEED: \$12,077.00

February 3, 2010  
Date

[Signature]  
Director of Finance and Purchasing

248 5/28/10

R. 17163

AGREEMENT

THIS AGREEMENT, made and entered into on this 10 day of March, 2010, by and between JACKSON COUNTY, MISSOURI, hereinafter called "the County" and the MID-AMERICA REGIONAL COUNCIL, 300 Rivergate Center, 600 Broadway, Kansas City, MO 64105, hereinafter called "Consultant."

WITNESSETH:

WHEREAS, by Ordinance 4162, dated October 19, 2009, the legislature did authorize the acceptance of the Energy Efficiency Conservation Block grant (EECBG) awarded by the United States Department of Energy; and,

WHEREAS, the terms of the EECBG require the development of a regional strategy on energy efficiency and conservation; and,

WHEREAS, Consultant is a regional planning council which provides a broad range of governmental planning and consulting services to the County; and,

WHEREAS, Consultant has agreed to provide services to County in support of the development of a regional strategy on energy efficient and conservation; and,

WHEREAS, Consultant has agreed to serve the County in accordance with the terms, conditions, and covenants as set forth in this Agreement; and

WHEREAS, Consultant and the County have agreed to be bound by the provisions hereof;

NOW THEREFORE, in consideration of the foregoing and the terms and provisions herein contained, County and Consultant respectively agree with each other as follows:

**FILED**  
MAR 10 2010  
MARY JO SPINO  
COUNTY CLERK

**Professional Services**

**Consultant** shall fulfill its contractual obligations by facilitating the development of a regional strategy on energy efficiency and conservation as required by the terms of the EECBG which are incorporated herein by reference.

**Independent Contractor**

**Consultant** shall work as an independent contractor and not as an employee of the County. **Consultant** shall be subject to the direction of the County only as to the result to be accomplished and not as to the means and methods for accomplishing the result. **Consultant** shall report all earnings received hereunder as gross income, and shall be responsible for its own Federal, State, and City withholding taxes and all other taxes, and operate its business independent of the business of the County except as required by this Agreement.

**Terms for Payment.**

The County shall pay **Consultant** for these services in a lump sum payment of \$12,077.00.

**Appropriation of Funds**

In the event no funds or insufficient funds are appropriated and budgeted, or are otherwise unavailable by any means whatsoever for payments due hereunder, County shall immediately notify Organization of this occurrence and this Agreement shall terminate on the last day for which appropriations were received, without penalty or expense to the County of any kind whatsoever, except as to the portions of the payment amounts herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available, or at any time after the last date that County has paid for the Services, if earlier.

County further agrees:

A. That any funds authorized or appropriated for services rendered under this Agreement shall be applied to the payments hereunder until all such funds are exhausted.

B. That County will use its best efforts to obtain authorization and appropriation of such funds including, without limitation, the inclusion in its annual budget, a request for adequate funds to meet its obligation under this Agreement in full.

**Duration and Termination.**

This Agreement shall be effective upon its execution and extend until December 31, 2010, unless sooner terminated. **Consultant** or the County may terminate this Agreement by giving three (3) days' written notice to the other party. Termination of this Agreement shall not constitute a waiver of the rights or obligations which County or **Consultant** may be entitled to receive or be obligated to perform under this Agreement. Should this Agreement terminate, all County written materials of any kind must be delivered and returned by **Consultant** to the County within ten (10) days of the termination of this Agreement.

**Assignment**

**Consultant** agrees, in addition to all other provisions herein, that **Consultant** shall not assign any portion or the whole of this Agreement without the prior written consent of the County.

**Remedies for Breach**

**Consultant** agrees to faithfully observe and perform all of the terms and conditions of this Agreement, and **Consultant's** failure to do so shall represent and constitute a breach of this Agreement. In such event, **Consultant** consents and agrees as follows:

(a) The County may without prior notice to **Consultant** immediately terminate this Agreement; and,

(b) The County shall be entitled to seek any available legal remedy and collect from **Consultant** all costs incurred by the County as a result of said breach, including reasonable attorney's fees, expenses, and costs.

#### **Severability**

If any covenant or other provision of this Agreement is invalid, or incapable of being enforced, by reason of any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect, and no covenant or provision shall be deemed dependent upon any other covenant or provision unless so expressed herein.

#### **Liability and Indemnification**

No party to this Agreement shall assume any liability for the acts of any other party to this Agreement, its officers, employees or agents and **Consultant** agrees, to the fullest extent permitted by law, to indemnify and hold the County harmless from damages and losses arising from the negligent acts, errors or omissions of **Consultant** in the performance of professional services under this Agreement, to the extent that **Consultant** is responsible for such damages and losses on a comparative basis of fault and responsibility between **Consultant** and the County. **Consultant** is not obligated to indemnify the County for the County's own negligence.

#### **Conflict of Interest**

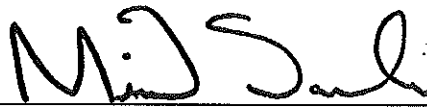
**Consultant** warrants that no officer or employee of the County, whether elected or appointed, shall in any manner whatsoever be interested in or receive any benefit from the profits or emoluments of this Agreement.

**Incorporation**


This Agreement incorporates the entire understanding and agreement of the parties.

IN WITNESS WHEREOF, the parties hereto have signed and executed this Agreement on the date first above written.

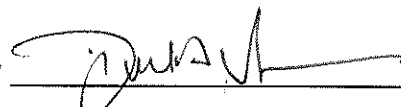
JACKSON COUNTY, MISSOURI

By   
Michael D. Sanders  
County Executive

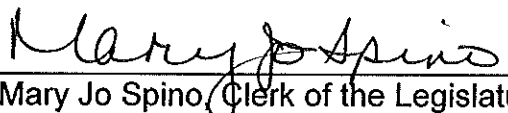
APPROVED AS TO FORM:

  
William G. Snyder  
Acting County Counselor

MID-AMERICA REGIONAL COUNCIL

By   
Title: EXECUTIVE DIRECTOR  
43-0976432  
Federal Tax I.D. No.

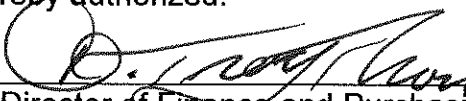
ATTEST:

By   
Mary Jo Spino, Clerk of the Legislature

**REVENUE CERTIFICATE**

I hereby certify that there is a balance otherwise unencumbered to the credit of the appropriation to which this contract is chargeable, and a cash balance otherwise unencumbered in the treasury from which payment is to be made, each sufficient to meet the obligation of \$12,077.00, which is hereby authorized.

Date March 8, 2010

  
Director of Finance and Purchasing  
Account No. 010-1225-56790  
12252010001