



February 11, 1958

Honorable Floyd R. Gibson
Member, Missouri State Senate
701 North Union
Independence, Missouri

Dear Senator Gibson:

This letter of instruction and advice is written in lieu of a formal opinion in answer to your request of January 28th, 1958, for reasons hereinafter appearing.

Section 16, Article 6, Missouri's Constitution of 1945 provides:

"Any municipality or political subdivision of this state may contract and cooperate with other municipalities or political subdivisions thereof, or with other states or their municipalities or political subdivisions, or with the United States, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service, in the manner provided by law."

To disclose implementation of the foregoing constitutional provision, we quote the following language from *St. Louis Housing Authority v. St. Louis*, 239 S.W. (2d) 289, 361 Mo. 1170, l.c. 1175:

"After the 1945 Constitution became effective, in an obvious implementation of Sections 16 and 21 of Article VI of the Constitution, the General Assembly enacted Laws Mo. 1947, Vol. I, pages 401 to 404 (now 70.210 to 70.320 R.S.Mo. 1949)."

Section 70.220, R.S.Mo. 1949, Cum. Supp. 1957, treats this power to contract and cooperate in the following language:

"Any municipality or political subdivision of this state, as herein defined, may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive

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official thereof, or with a duly authorized agency of the United States, or of this state, or with other states or their municipalities or political subdivisions, or with any private person, firm, association or corporation, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision. If such contract or cooperative action shall be entered into between a municipality or political subdivision and an elective or appointive official of another municipality or political subdivision, said contract or cooperative action must be approved by the governing body of the unit of government in which such elective or appointive official resides."
(Underscoring supplied.)

Section 70.210, R.S.Mo. 1949, Cum. Supp. 1957, defines "political subdivision" as including counties. Attention is directed to the first underscored portion of Section 70.220, R.S.Mo. 1949, Cum. Supp. 1957, supra. The language "or with any private person, firm, association or corporation" constitutes the sole amendment made to that statute by Senate Bill 218, passed by the Sixty-Ninth General Assembly, and effective August 29, 1957. Such amendment is significant in view of the question posed in the request for this opinion. Section 70.220, supra, as it now stands, obviously confers authority on a county or counties to contract with any private person, firm, association or corporation for the purposes and subject to the limitations set forth in the statute. The rule with respect to "limitations" is found in the following language from Section 70.220, supra:

" * * ; provided, that the subject and purposes of any such contract or cooperative action made and entered into by such municipality or political subdivision shall be within the scope of the powers of such municipality or political subdivision."

In *Everett v. County of Clinton, Mo.*, 282 S.W. (2d) 30, 1.c. 35, the Supreme Court of Missouri dealt with powers of counties in the following language:

" * * the general rule in Missouri with regard

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to powers of counties is well stated in King v. Maries County, 279 Mo. 488, 249 S.W. 418, 420, as follows: 'It has been held uniformly that county courts are not the general agents of the counties or of the state. Their powers are limited and defined by law. They have only such authority as is expressly granted them by statute. * * * This is qualified by the rule that the express grant of power carries with it such implied powers as are necessary to carry out or make effectual the purposes of the authority expressly granted. * * * ' And see Blades v. Hawkins, 240 Mo. 187, 195, 112 S.W. 979."

The foregoing review of Section 16, Article 6, Missouri's Constitution of 1945, and Section 70.220, R.S.Mo. 1949, Cum. Supp. 1957, leads to the conclusion that third and fourth class counties in Missouri may contract singly or jointly with any private person, firm, association or corporation for planning services, provided that the subject and objectives of such planning services involve a project within the scope of powers granted to such counties by statute. The letter of inquiry, supplemented by its enclosures, does not recite facts from which we are able to determine the definite subject and objectives of the planning services contemplated, and this letter of instruction, of necessity, covers only the general contract powers of counties of the third and fourth class.

If you are able to furnish this office with additional facts which may bring these contemplated contract services within the purview of our statutes relating to county planning, zoning, recreation, etc., every effort will be made to write a formal opinion applying the applicable statutory law to a given fact situation.

Yours very truly,

John M. Dalton
Attorney General

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