

MUNICIPAL CORPORATIONS:
SECOND CLASS COUNTIES:
METROPOLITAN PLANNING COMMISSIONS:
CONTRACTS:

The City of St. Joseph and the County of Buchanan are authorized to create a Metropolitan Planning and Zoning Commission. Under the contract which has been executed by

these two political entities, whereby this Planning agency has been created, the agency is authorized to enter into appropriate contracts with State or Federal agencies without securing prior approval from the City of St. Joseph or the County of Buchanan.

August 6, 1965

OPINION NO. 186

Honorable John B. Mitchell
Prosecuting Attorney
Buchanan County
St. Joseph, Missouri



Dear Sir:

This is in response to your opinion request of April 6, 1965, wherein you inquire as follows:

"May the Metropolitan Planning and Zoning Commission of Greater St. Joseph and Buchanan County enter into a Contract with any Federal or State Agency in the manner shown by the enclosed proposed contract with the State Highway Commission without approval of the County Court of Buchanan County or the Common Council of the City of St. Joseph?"

We note from the file that the City of St. Joseph, Missouri, and Buchanan County, have entered into a contract for the purpose of creating a planning commission known as the Metropolitan Planning Commission of Greater St. Joseph and Buchanan County, Missouri. This commission or agency was formed for the purpose of receiving Federal grants which are allocated to urban areas for projects based upon a comprehensive planning process. The agreement creating the planning agency is authorized by Section 70.220, RSMo 1959. This statute enacted pursuant to Article VI, Section 16, Constitution of Missouri 1945, reads in part as follows:

"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 official thereof, or with a duly authorized agency of the

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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. * * * "

This contract between these two political entities appears to be for a common service, namely, that of planning for the industrial and transportation needs of the areas within the two entities. Certain prerequisites must be met before such a contract is authorized. The subject and purposes of the contract must be within the scope of the powers of each municipality or political entity entering into the contract. In addition, the entity involved must be authorized to enter into a contract to cooperate in the performance of these services.

It appears that these prerequisites have been met by the City of St. Joseph and the County of Buchanan and these entities are legally empowered to enter into the contract here involved. Among other things, the contract creates a planning commission which will engage in intensive planning for the areas included in these two entities. St. Joseph, under Article XII of its Charter, is authorized to adopt provisions for city planning. The County Court of Buchanan County, a second class county, is authorized, after an affirmative vote of the people in accordance with Section 64.510, RSMo Cum. Supp. 1963, to provide for the preparation of a county plan.

The substance of your question appears to be whether the planning agency created by these two political entities can contract with still other agencies such as the State or Federal government or departments or agencies thereof. We believe that the answer to this question must be in the affirmative for the reasons hereafter indicated.

Both St. Joseph and Buchanan County are empowered by Section 70.220 to enter into contracts with the State or Federal government for planning grants. It is an elementary principle of law that a power given by statute carries with it, incidentally or by implication, powers not expressed but necessary to render effective the expressed power. Further, it is generally recognized that that which is implied in a statute is as much a part of it as the expressed powers therein.

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State ex rel Ferguson v. Donnell, 163 S.W.2d 940; Bowers v. Missouri Mutual Association, 62 S.W.2d 1058; Hudgins v. Mooresville Consolidated School District, 278 S.W. 769. If each contracting entity is by statute given the right to contract with the Federal government, certainly by necessary implication a commission or agency created by the joint action of the contracting entities acting pursuant to the same statute should have the same authority as possessed by each of its creators. Section 70.260 provides that the contract between the city and county may provide for a joint board and provide for the powers and duties of such joint board. The proposed contract which you have enclosed has granted authority to such joint board to cooperate with the State Highway Commission.

Since we have concluded that these two political entities are authorized to create the Planning agency and are further authorized to delegate to the Planning agency the authority to contract with State or Federal agencies, we must next look to the contract between the two entities to ascertain whether the two contracting political entities have reserved unto themselves the right to veto or require approval of contracts between the Planning agency and the State or Federal government. We do note that under Article IX, par. A, of the "Agreement" the contracting political subdivisions have expressly required that the Metropolitan Planning agency submit an annual budget to both of the contracting parties for approval, and the monies involved are paid over to the Planning agency only upon approval of their budget. Paragraph C of the same article provides that contracts may not be entered into without the approval of the city council and county court, if in the opinion of four or more of the commission members such a contract would limit, lessen, or expand the authority of the commission as set forth in this agreement. The proposed agreement which you inquire about is between the Planning commission and the State Highway Commission and we note that Article VIII of the "Agreement" between the two cooperating political subdivisions expressly authorizes the Planning commission to cooperate with the State Highway Commission.

It appears from your correspondence and the documents enclosed therein that the Planning commission is required to submit a budget to the two cooperating political subdivisions before receiving any money, and it appears that the contracting parties have authorized the Planning commission to expend the funds which have been appropriated as a result of the submission and approval of the annual budget of the Planning commission. It further appears that the contracting parties have not reserved unto themselves the right to veto these expenditures except under the circumstances already provided for in their "Agreement."

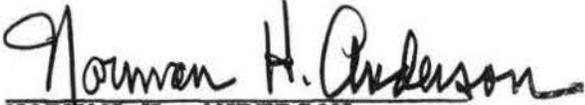
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CONCLUSION

It is the opinion of this office that the City of St. Joseph and the County of Buchanan are authorized to create a Metropolitan Planning and Zoning Commission. Under the contract which has been executed by these two political entities, whereby this Planning agency has been created, the agency is authorized to enter into appropriate contracts with State or Federal agencies without securing prior approval from the City of St. Joseph or the County of Buchanan.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Clyde Burch.

Yours very truly,


NORMAN H. ANDERSON
Attorney General