

CITIES, TOWNS & VILLAGES:  
BONDS:  
COOPERATIVE AGREEMENTS:  
COUNTY BUILDINGS:  
MUNICIPAL BUILDINGS:

(1) the City of Columbia and Boone County may cooperate in the acquisition or building of an office building to be used jointly for administrative offices, (2) that revenue bonds cannot be used by the City of Columbia or Boone

County for the purpose of financing the acquisition or construction of such a building (3) by a vote of the people general obligation bonds may be issued by the City of Columbia and by Boone County for financing the acquisition or construction of such a building.

OPINION NO. 237

November 14, 1968



Honorable George W. Parker  
State Representative - District 120  
Missouri House of Representatives  
819 Crestland  
Columbia, Missouri 65201

Dear Representative Parker:

This is in response to your question whether the City of Columbia, a constitutionally chartered city, may join with Boone County, which will become a second class county on January 1, 1969, in building an office building to be used jointly, and if so, the options that are available in the financing of such a building.

Article VI, Section 16, Constitution of Missouri, provides as follows:

"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."

This section authorizes the legislature to pass laws respecting cooperative agreements between a municipality and a political subdivision for the planning, development, construction, acquisition or operation of any public improvement or facility or for a common service. Implementing this constitutional provision, the legislature enacted Section 70.220, RSMo, which provides as follows:

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"Any municipality or political subdivision of this state, . . . may contract and cooperate with any other municipality or political subdivision, or with an elective or appointive official thereof, . . . 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 . . . and an elective or appointive official of another . . . 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."

It is our view that the acquisition or construction of a building to be used jointly by the City of Columbia and Boone County for administrative offices and other public purposes comes within the terms of this statute authorizing a municipality or political subdivision to cooperate in the acquisition, construction, or operation of a "public improvement or facility or for common service" provided that each has authority to provide such public improvement, facility or common service separately and independently. The question then arises as to whether Columbia has authority to acquire or construct an office building to be used by the city for administrative purposes or other public service and whether Boone County has such authority separately and independently of the authority of Columbia.

Article II, Section 3 of the charter of Columbia provides that Columbia has "all powers possible for a city to have under the Constitution and laws of Missouri, or which it would be competent for this charter specifically to enumerate, or for the General Assembly to grant, including all powers enumerated by the statutes of this state now or hereafter applicable to cities of any class or population group whatsoever; and except as prohibited by the Constitution or laws of the state, the city may exercise all municipal powers, functions, rights, privileges and immunities of every nature whatsoever."

Article II, Section 18 (10) of the said charter authorizes the city council to "acquire, receive, hold, provide for by contract or otherwise, construct, operate, regulate, manage, maintain and improve all kinds of public buildings, structures, . . . all other public improvements, and any other property . . . within or without the city . . . for any other public or municipal use or purpose; acquire,

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receive and hold any estate or interest in any such property; and sell, lease, mortgage, pledge or otherwise dispose of the same or the products thereof. The power herein granted shall be limited only by prohibitions contained in the Constitution and laws of Missouri and other provisions of this charter."

It is the opinion of this office that the City of Columbia under charter provision has authority to acquire or construct a building to be used for administrative offices or other public purposes of the above charter provisions.

Section 49.510, RSMo 1959, provides:

"It shall be the duty of the county to provide offices or space where the officers of the county may properly carry on and perform the duties and functions of their respective offices. Said county shall maintain, furnish and equip said offices and provide them with the necessary stationery, supplies, equipment, appliances and furniture, all to be taken care of and paid out of the county treasury of said county at the time and in the manner that the county court may direct."

Section 49.270, RSMo 1959, provides:

"The said court shall have control and management of the property, real and personal, belonging to the county, and shall have power and authority to purchase, lease or received by donation any property, real or personal, for the use and benefit of the county; to sell and cause to be conveyed any real estate goods or chattels belonging to the county, appropriating the proceeds of such sale to the use of the same, and to audit and settle all demands against the county."

It is our view that under the above statutes Boone County has authority to purchase or construct a building to be used by the county for administrative offices and other public purposes.

Since the City of Columbia and Boone County each have authority to purchase a building or otherwise acquire a building to be used as an office building for its officers and for the transaction of other public business, it follows that under Section 70.220, supra, they have authority to contract and cooperate with each other in the construction, acquisition, and operation of a building to be used by the officers of each for offices and other public purposes.

You inquire what methods are available for financing a project such as the one now under consideration and particularly whether it could be financed by the issuance of revenue bonds.

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Section 70.250, RSMo, provides that any municipality or political subdivision may provide for the financing of its share of the cost and expenses of the project in the same manner as it could finance it as if acting alone.

It is our opinion that revenue bonds cannot be used by the City of Columbia or by Boone County for the purpose of financing an office building.

The charter of the City of Columbia has no provision authorizing revenue bonds to be used for the acquisition or construction of an office building, and there is no statute providing for revenue bonds to be used by the City of Columbia or by Boone County for such purpose. A municipality or political subdivision of the state has only such authority as is expressly given them and such implied authority as is necessary to execute the express power given. *Lancaster v. County of Atchison*, 180 S.W.2d 706.

Assuming that neither the City of Columbia nor Boone County has available funds for the acquisition or construction of an office building, it is our opinion that general obligation bonds may be used for this purpose.

Section 108.010, RSMo, provides:

"Any county in this state, by vote of two-thirds of the qualified electors thereof voting thereon, may become indebted in an amount exceeding in any year the income and revenue provided for such year plus any unencumbered balances from previous years; provided such indebtedness shall not exceed five per cent of the value of taxable tangible property therein as shown by the last completed assessment for state and county purposes."

Section 108.020, RSMo, provides:

"Any county in this state, by vote of two-thirds of the qualified electors thereof voting thereon, may incur an indebtedness for county purposes in addition to that authorized in section 108.010 not to exceed five per cent of the taxable tangible property shown as provided in said section."

It is the opinion of this office that Boone County may finance its portion of the cost of the office building by the issuance of general obligation bonds under Section 108.010 and Section 108.020, supra, by vote of two-thirds of the qualified voters voting thereon as provided in Chapter 108, RSMo.

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Section 95.115, RSMo, provides:

"Any city, incorporated town or village of the state, whether organized under the general laws of this state or by special charter or by constitutional charter, by vote of two-thirds of the qualified electors thereof voting thereon, may become indebted in an amount exceeding in any year the income and revenue provided for such year plus any unencumbered balances from previous years for any purpose authorized in the charter of such city, incorporated town or village, or by any general law of this state; provided, such indebtedness shall not exceed five per cent of the value of taxable tangible property therein as shown by the last completed assessment for state and county purposes."

Section 95.120, RSMo, provides as follows:

"Any city, whether organized under the general laws of this state or by special charter or by constitutional charter, by vote of two-thirds of the qualified electors thereof voting thereon, may incur an additional indebtedness for city purposes authorized in the charter of such city or by any general law of this state, not to exceed five per cent of the taxable tangible property therein as shown by the last completed assessment for state and county purposes."

It is the opinion of this office that the City of Columbia may finance its portion of the cost of an office building by the issuance of general obligation bonds by a vote of two-thirds of the qualified voters as provided under Chapter 95, RSMo.

#### CONCLUSION

It is the opinion of this department that: (1) the City of Columbia and Boone County may cooperate in the acquisition or building of an office building to be used jointly for administrative offices; (2) that revenue bonds cannot be used by the City of Columbia or Boone County for the purpose of financing the acquisition or construction of such a building, (3) by a vote of the people general obligation bonds may be issued by the City of Columbia and by Boone County for financing the acquisition or construction of such a building.

The foregoing opinion, which I hereby approve was prepared by my Assistant, Moody Mansur.

Yours very truly,

NORMAN H. ANDERSON  
Attorney General