

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

**A ORDINANCE** transferring \$240,000.00 within the 2019 General Fund and appropriating \$100,000.00 from the undesignated fund balance of the 2019 Health Fund, and authorizing the County Executive to execute an Intergovernmental Cooperative Agreement with the City of Independence, MO, to set out the terms of the management and operation of the Jackson County Regional Animal Shelter, at a cost to the County in 2019 in the amount of \$340,000.00.

**ORDINANCE NO. 5230**, May 20, 2019

**INTRODUCED BY** Theresa Galvin and Tony Miller, County Legislator

WHEREAS, by Resolution 19675, dated December 11, 2017, the Legislature awarded a sixty-month contract to Great Plains SPCA of Merriam, KS, for the management and operation of the Jackson County Regional Animal Shelter; and,

WHEREAS, Great Plains has given notice to the County that it will no longer operate the shelter effective July 1, 2019; and,

WHEREAS, the City of Independence and the County have negotiated the attached Intergovernmental Cooperative Agreement whereunder the City will assume operations of the Regional Animal Shelter; and,

WHEREAS, under the proposed Agreement, the City of Independence has agreed to sell to the County the approximately seven acres of land that the Regional Animal Shelter is located on, for the sum of \$240,000.00; and,

WHEREAS, the County will then lease to the City of Independence the Regional Animal

Shelter facility and site with all the existing furniture, fixtures, and equipment for an initial term of two years, with a provision for an extension on such terms as may be mutually agreed; and,

WHEREAS, the County will pay the City the annual sum of \$100,000.00 for each of the initial two years of the Agreement, to assist the City with transition costs associated with assuming responsibility for the operation of the facility; and,

WHEREAS, execution of the Agreement with City of Independence is in the best interest of the health, safety, and welfare of the citizens of Jackson County; and,

WHEREAS, an appropriation and transfer are necessary to place the required funds in the proper spending accounts; now therefore,

BE IT ORDAINED by the County Legislature of Jackson County, Missouri, that the following appropriation and transfer and hereby are made:

<u>DEPARTMENT/DIVISION</u>	<u>CHARACTER/DESCRIPTION</u>	<u>FROM</u>	<u>TO</u>
Health Fund			
Undesignated Fund Balance			
002-2810		\$100,000	
Non-Departmental-Health	56790-Other Contractual Svc.		\$100,000
002-5102			
General Fund			
Non-Departmental-General			
001-5101	58020-Buildings & Improvements	\$240,000	
001-5101	58010-Land & Right of Way		\$240,000

and,

BE IT FURTHER ORDAINED that the County Executive be and is hereby authorized to execute for the County the attached Intergovernmental Cooperative Agreement with City of Independence; and,

BE IT FURTHER ORDAINED that the Director of Finance and Purchasing is authorized to make all payments, including final payment on the Agreement.

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

APPROVED AS TO FORM:

  
Chief Deputy County Counselor

  
County Counselor

Certificate of Passage

I hereby certify that the attached Ordinance, Ordinance No.5230, introduced on May 20, 2019, was duly passed on June 10, 2019 by the Jackson County Legislature. The votes thereon were as follows:


Yeas 9

Nays 0

Abstaining 0

Absent 0

6-10-19  
Date

  
Mary Jo Spino, Clerk of Legislature

This Ordinance is hereby transmitted to the County Executive for his signature.

I hereby approve the attached Ordinance No.5230.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Frank White, County Executive

Funds sufficient for this appropriation and transfer are available from the sources indicated below.

ACCOUNT NUMBER: 002 2810  
ACCOUNT TITLE: Health Fund  
Undesignated Fund Balance  
NOT TO EXCEED: \$100,000.00

ACCOUNT NUMBER: 001 5101 58020  
ACCOUNT TITLE: General Fund  
Non-Departmental General  
Buildings & Improvements  
NOT TO EXCEED: \$240,000.00

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: 002 5102 56790  
ACCOUNT TITLE: Health Fund  
Non-Departmental Health  
Other Contractual Services  
NOT TO EXCEED: \$100,000.00

ACCOUNT NUMBER: 001 5101 58010  
ACCOUNT TITLE: General Fund  
Non-Departmental General  
Land & Right of Way  
NOT TO EXCEED: \$240,000.00

5/20/19  
Date

  
Chief Administrative Officer

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE CITY OF INDEPENDENCE AND JACKSON COUNTY FOR  
THE SALE OF LAND AND THE LEASE AND OPERATION OF A  
REGIONAL ANIMAL SHELTER FACILITY**

THIS AGREEMENT, by and between JACKSON COUNTY, MISSOURI, a Constitutional Home Rule Charter County of the State of Missouri, hereinafter referred to as “the County,” and the CITY OF INDEPENDENCE, MISSOURI, a Charter City of the State of Missouri, hereinafter referred to as “the City,” is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

WHEREAS, the County constructed a state of the art animal shelter facility on land owned by the City, located at 21001 E. Missouri Hwy 78, Independence, MO, hereinafter referred to as “the Facility”; and

WHEREAS, the City and County have previously entered into cooperative agreements regarding the Facility to serve the City and County’s need for animal services in their respective jurisdictions; and,

WHEREAS, the Operator chosen by the County to operate the Facility has given notice that it will no longer operate the Shelter effective July 1, 2019; and,

WHEREAS, the City and County have negotiated terms under which the City shall assume operation of the Facility to provide service to the City and County;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the City and County agree as follows:

**1. SALE OF LAND**

**A.** In consideration for the covenants and promises in this Agreement, the City shall sell to the County the approximately 7 acres of land upon which the Facility exists, as described more fully in Exhibit A.

**B.** The City and County agree that the purchase price shall be two hundred and forty thousand dollars (\$240,000) and the purchase price shall be paid no later than January 31, 2020.

**C.** Should the County offer the land and/or the Facility thereupon for sale, transfer, closure, change in use or operator, or lease during the initial term of this Agreement, the City shall have the right of first refusal.

**D.** The City shall deliver a title insurance policy in the amount of the purchase price as of the time and date of the recordation of the warranty deed provided by the City from a title company of the County’s choosing, at the expense of the County. Not later than July 10, 2019, the City shall cause to be furnished to the County a current commitment to issue the

title insurance policy and copies of all exception documents referenced in said title commitment. The County shall then have ten (10) days after receipt of the title commitment and the documents to notify the City of any objections the County has to any matters shown or referred to in the title commitment or documents. Any matter shown or referred to in the title commitment or documents to which the County does not object shall be permitted exceptions (“Permitted Exceptions”). With regard to items to which the County does object, the City shall have until closing to cure the objections. If the City does not cure such objections by Closing, then this Agreement shall be automatically terminated unless the County waives such objections on or before closing.

**E.** Title should be transferred no later than Monday, August 5, 2019. Closing will take place at the title company of the County’s choosing. At or before closing, the City agrees to properly execute and deliver into escrow a General Warranty Deed (the “Deed”). The Deed shall convey to the County fee simple title, subject only to the Permitted Exceptions and zoning ordinances and laws. At or before closing the County shall deliver into escrow guaranteed funds sufficient to satisfy its obligations under this Agreement and a closing instruction letter to the title company that conditions the release upon the delivery of the deed and title company’s agreement to insure title without the objected exceptions.

## **2. LEASE OF THE FACILITY**

**A.** The County shall lease to the City the Facility, together with all existing furniture, fixtures, and equipment, and the land upon which the Facility sits as described in Exhibit A, to the City for \$1.00 (one dollar) during the term of this Agreement. The City shall purchase any new furniture, fixtures, and equipment necessary for the continued operation of the Facility. The County shall continue to pay all outstanding debt service for the Facility. Neither the City nor County shall allow the premises to be occupied by any department or operation other than that specified in this agreement.

**B.** During the lease the City shall be responsible for and provide day-to-day maintenance of the facility and grounds including, but not limited to, janitorial service, replacement of light bulbs and filters, routine grass mowing, landscaping, and snow removal.

**C.** . During the lease the County shall be responsible for condition and maintenance of the physical plant, and building structure, including, but not limited to repair, replacement, and routine maintenance of electrical, plumbing, HVAC and other building systems, and building structure. The County shall also be responsible for and replacement of major structural components and systems, including but not limited to HVAC, and roof, in the event that the City and County agree that an item can no longer be repaired but must be replaced.

**D.** The County shall complete all outstanding repairs and maintenance on the facility prior to the City taking possession. Thereafter, during the term of that agreement, emergency repairs shall be completed by the County or its designee within 48 hours of a report of a condition

requiring emergency attention. All other repairs shall be completed within two (2) weeks of the report of the need to the County by the City.

### **3. OPERATION**

The City shall, during the Term of this agreement, administer and operate Animal Control Services and the Facility in accordance with City and County ordinances and pertinent State and Federal laws governing and controlling the administration and operation of animal shelters.

**A.** Animal Control Services shall include, with respect to the unincorporated areas of Jackson County and Jackson County's Parks, field services, on-call services, and sheltering services. The services provided to the County shall align with the current criterion and service level for the same Animal Control Services provided by the Independence Police Department.

**B.** The County agrees, upon annual appropriation, to make an annual payment during the initial term of this Agreement of one hundred thousand dollars (\$100,000) to the City to provide for transition costs associated with the operation of the Facility.

The initial yearly payment shall be made on or before July 31, 2019 and subsequent yearly payments will be due on or before July 31 of each year of the term of the Agreement. Should the Agreement be terminated, a refund of monies paid shall be available under the Agreement on a pro-rated basis for the days between the date of termination and the end of the then-current and paid for term.

If the County's legislative body does not appropriate all of the funds necessary to make the payments to the City or to provide the necessary services required herein as part of its annual budget adoption, the Agreement shall terminate at the end of the current appropriation period with no further services being provided by the City, and the City being relieved of any obligations under the Agreement.

**C.** The City agrees to provide incinerator services for animals that originate from unincorporated areas of Jackson County and Jackson County Parks at no additional cost to the County.

**D.** The City will provide pick up of and boarding of stray and/or endangered ungulate (hoofed) animals in the unincorporated areas of Jackson County, including transportation.

**E.** The City will provide reports on a quarterly basis to the County regarding the operation of the Facility. The reports will include intake and disposition of all animals, said reports to be received by the County within 30 days following quarter end, and will respond within 10 days to information requests. For purposes of this agreement, a quarter will end on March 31, June 30, September 30, and December 31. The City and the County agree that they shall together, on an annual basis on or before March 31 of each year of the Term, review the Facility intake numbers in order to determine whether any major shifts are detectable in the



animal population being served by the Facility. In the event of a significant shift in numbers, both parties agree that they shall meet and confer regarding management of the animal population.

**F.** The City shall initially keep the Facility open to the public five (5) days per week, Wednesday through Sunday, not including City holidays, provided sufficient activity occurs to justify the associated expense. At no time will the shelter be open to the public less than 35 hours per week, including Saturday operating hours. The City shall have the right to reduce shelter services due to budget issues provided the City shall notify the County, and due to a lack of funds.

**G.** The City shall agree to provide shelter space for domesticated animals being provided to the Facility for a minimum of six (6) business days, which shall be the required holding period. The staff of the Facility shall provide care to these animals including but not limited to food, shelter, necessary veterinary care, etc.

Domesticated animals will be disposed of pursuant to the City's ordinances and at the City's costs. All adoption fees, boarding fees, and other applicable fees collected at the Facility shall be retained by the City. The City will work to identify animals suitable for adoption and agrees to work towards the goal of maintaining a "no kill" shelter and to work to encourage adoption of these animals.

As a condition of adoption, all dogs and cats over four (4) months of age shall be spayed or neutered. Additionally, any other animals shall be spayed or neutered as required by any City, County, or State laws. The City agrees to provide said services through the Shelter.

**H.** Jackson County Animal Welfare Committee.

- i.** The City and the County shall participate in an Animal Welfare Committee. The Committee shall be comprised of five members who shall serve for two-year terms. The County Executive shall appoint three members, and the Mayor of Independence shall appoint two members. The Committee shall select its own chair from among its members.
- ii.** The Committee shall be charged with the responsibility to, among other things: promote spay and neuter programs for household pets; support educational programs that promote the welfare and safety of animals; hear complaints regarding abuse or cruelty to animals when, in the committee's opinion, such complaints have not been satisfactorily addressed by any applicable enforcement or animal welfare agency; investigate charges of unethical treatment of animals.
- iii.** The Committee shall meet as often as the Committee determines to be necessary, but no less often than twice per year. The Committee shall submit a written report of its activities to the Jackson County Executive and the Mayor of the City of Independence no later than January 31 of each year.

- iv. The City shall provide clerical and financial staff support to the Committee.
  - I. City and County agree the Facility shall initially remain named the Jackson County Regional Animal Shelter. The parties may, by mutual agreement, change the name of the facility.
  - J. The City, as the Operator, may not intake and/or board animals in the Facility from outside Independence or the unincorporated areas of Jackson County specified herein without prior consent of the County, which will not be unduly withheld.
4. GOVERNMENTAL APPROVAL. This agreement is subject to and contingent upon the approval of both the Independence City Council and the Jackson County Legislature.
  5. EFFECTIVE DATE. The effective date of this agreement is July 1, 2019
  6. TERM. The initial term of this agreement is two (2) years and shall be renegotiated annually thereafter for one year extensions unless a party provides 180-day advance notice of its intent to terminate. The City or County shall notify the other party of its intention to terminate no later than December 30 of the year preceding the end of the term, in the manner specified in the NOTICES section of this Agreement.
  7. INSURANCE
    - A. The County shall provide comprehensive (building and contents at replacement cost) property insurance for the Facility. The County may list the Facility as an insured premise on County's umbrella property insurance policy for all County facilities or may provide property insurance for the Facility via a stand-alone policy or approved self-insurance at any time during the term of this Agreement. The City shall be named as an additional insured and provided evidence of coverage not less than annually.
    - B. In the event of a casualty loss to the Facility, County shall be responsible for any insurance deductible or self-insured retention that must be paid in connection with the loss, except that City shall be responsible for any insurance deductible or self-insured retention in the amount of \$150,000 or less if the loss was caused by negligence attributable to the City and provided that the liability of the City for negligence shall be limited to this amount. Each party also agrees to waive subrogation as to the other party.
    - C. Additionally, the City shall provide comprehensive general liability insurance for the Facility, naming County as an additional insured, or provide evidence of self-insurance on the Facility satisfactory to the County. The City shall provide satisfactory evidence of insurance or self-insurance to cover the acts and omissions of its employees and volunteers and provide for any insurance coverage required by law stemming from the employment of such City staff and/or volunteers.
  8. HOLD HARMLESS

**A.** To the fullest extent permitted by law and regulations, the County shall indemnify and hold harmless the City, and the board members, officers, directors, partners, employees, agents, consultants and sub-contractors of each and any of them from and against all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals in all courts or arbitration or other dispute resolution costs) arising out of or relating to the performance of the work, provided that any such claim, cost, loss or damages attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom but only to the extent caused by any act or omission of the County, any sub-contractor, any supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the work or anyone for whose acts any of them may be liable.

**B.** To the fullest extent permitted by laws and regulations, the City shall indemnify and hold harmless the County, and the board members, officers, directors, partners, employees, agents, consultants and sub-contractors of each and any of them from and against all claims, costs, losses and damages arising out of or relating to City's performance of the Agreement, provided that any such claim, cost, loss or damages attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom but only to the extent caused by any act or omission of City or any individual or entity directly or indirectly employed by any of them to perform any of the work or anyone for whose acts any of them may be liable.

**9. NOTICES.** Notice to either party in connection with this Agreement shall be made in writing, delivered electronically and by certified mail, signed return receipt requested, to the following addresses, or such other address as the signatories shall from time to time designate:

County: By Mail  
County Executive  
Jackson County, Missouri  
415 E. 12<sup>th</sup> Street

By Email  
[mhenosy@jacksongov.org](mailto:mhenosy@jacksongov.org)  
[dsees@jacksongov.org](mailto:dsees@jacksongov.org)  
Kansas City, Missouri 64106  
[jmasters@jacksongov.org](mailto:jmasters@jacksongov.org)

City: By Mail  
City Manager  
City of Independence  
111 E. Maple  
Independence, Missouri 64050

By Email  
[zwalker@indepmo.org](mailto:zwalker@indepmo.org)  
[anorris@indepmo.org](mailto:anorris@indepmo.org)  
[cheinen@indepmo.org](mailto:cheinen@indepmo.org)  
[jcato@indepmo.org](mailto:jcato@indepmo.org)

**10. CUMULATIVE REMEDIES.** The duties and obligations imposed by this Agreement and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or

all of them which are otherwise imposed or available by Law or Regulations, by special warranty or guarantee, or by other provisions of this Agreement.

11. **SURVIVAL OF OBLIGATIONS.** All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with this Agreement, as well as all continuing obligations indicated in the Agreement, will survive final payment, completion, and acceptance of the Work or termination or completion of the Agreement or termination of the services of City.
12. **CONTROLLING LAW.** This Agreement is to be governed by the laws of the State of Missouri.
13. **VENUE.** Venue of any lawsuit filed regarding the Project or arising out of this Agreement will be in the Circuit Court of Jackson County, Missouri at Independence.
14. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and which, when taken together, shall constitute one entire Agreement. It shall be fully executed when each party whose signature is required has signed at least one counterpart even though no one counterpart contains the signatures of all the parties to this Agreement.
15. **FAX SIGNATURES.** For purposes of this Agreement, a document (or signature page thereto) signed and transmitted by facsimile machine, telecopier, or email attachment is to be treated as an original document. The signature of any party thereon, for purposes hereof, is to be considered an original signature, and the document transmitted is to be considered to have the same binding effect as an original signature on an original document. At the request of any party, any facsimile, telecopy, or document sent by email attachment is to be re-executed in original form by the parties who executed the facsimile, telecopy, or document sent by email attachment. No party may raise the use of a facsimile machine, telecopier, or email attachment, or the fact that a signature was transmitted through the use of a facsimile, telecopier, or as an email attachment as a defense to the enforcement to this Agreement or any amendment or other document executed in compliance with this paragraph.
16. **TERMINATION.** The City or County may terminate this Agreement for Cause upon giving 180 days' to the other party in accordance with the provisions of the NOTICES section of this Agreement. "Cause" includes the violation of this Agreement by either party. "Cause" for City to act includes County's failure to timely make any payment on the debt service on the Animal Shelter Facility and/or any other payment required herein, and/or failure to properly maintain the facility in accordance with the obligations set out in this Agreement. "Cause" for the County to act includes the City's failure to make timely payments on any invoices, abuse or mistreatment of animals by the City, or failure to operate the Facility within generally accepted State standards. If one party gives the other notice of intent to terminate for cause, the non-terminating party shall have 180 days to cure or remedy the condition giving rise to the termination.

- 17. ASSIGNMENT. Neither party may assign their rights and obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.
- 18. THIRD PARTY RIGHTS. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than City and County.
- 19. ENTIRE AGREEMENT. This Agreement supersedes and abrogates all prior agreements between the parties concerning the Facility, constitutes the entire agreement between the parties hereto and there are no other understandings, written or oral, relating to the subject matter hereof; the Agreement may not be changed, modified or amended, in whole or in part, except in writing signed by the authorized representatives of both the County and City.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

ATTEST:

\_\_\_\_\_  
Sarah Carnes-Lemp, City Clerk  
City of Independence, Missouri

APPROVED AS TO FORM:

\_\_\_\_\_  
Shannon Marcano, City Counselor  
City of Independence, Missouri

CITY OF INDEPENDENCE, MISSOURI:

\_\_\_\_\_  
Zachary Walker, City Manager  
City of Independence, Missouri

ATTEST:

\_\_\_\_\_  
Mary Jo Spino, Clerk of the Legislature  
Jackson County, Missouri

APPROVED AS TO FORM:

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Bryan O. Covinsky, County Counselor  
Jackson County, Missouri

JACKSON COUNTY, MISSOURI



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Frank White Jr., County Executive  
Jackson County, Missouri

**Exhibit A**

*[property description]*