

Intergovernmental Agreement between the City of Independence and Jackson County  
for  
Construction and Operation of an Animal Shelter Facility

WHEREAS, the City and County have previously entered into a cooperative Agreement for an Animal Shelter Facility to serve the City of Independence, Missouri, the unincorporated area of Jackson County and Jackson County parks as well as specific communities located in the County; and,

WHEREAS, the City commissioned a study with financial support from the County and have developed a preliminary design for the new shelter from Shelter Planners of America; and,

WHEREAS, the City and County support the concept outlined in the preliminary design, herein referred to as Preliminary Schematic, Rev.2, February, 2009, a copy of which is attached as Exhibit A; and,

WHEREAS, the City and County have determined that property, as illustrated by Exhibit B attached, hereto, that is owned by the City and located on 78 Highway is the appropriate location for the new shelter; and,

WHEREAS, the City and County have agreed that the County would fund construction of the new shelter as set forth herein and the City would operate the new shelter.

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

1. LAND. City shall provide approximately 6.9 acres, as described in Exhibit B, for the location of the Animal Shelter, which City will lease to the County for \$1.00 (One Dollar) during the term of this agreement. Such lease shall expire upon retirement of the bonds financing the project and the completion of the conveyance procedures set forth herein.

2. FINANCING. County shall issue or cause to be issued special obligation bonds during calendar year 2009 to fund the design, construction and related construction expenses (such as builders risk insurance), and equipping of an Animal Shelter, with a total cost to the County of up to a maximum of \$5.3 million in bond proceeds. The cost of principle and interest during the life of the bonds shall remain a County obligation. In connection with the financing, if it is deemed beneficial that the Shelter and property on which it is located be utilized as collateral for the financing, then City shall agree to consent to the collateralization of the lease.

3. CONSTRUCTION. County shall be responsible for constructing the Animal Shelter substantially similar to the concept outlined as Preliminary Schematic, Rev. 2, which is attached as Exhibit A, and approved by the City, within the budget set forth in Section 2 herein. It is understood that modifications to the conceptual design will be undertaken as may be mutually agreed upon by the parties.

- A. County shall immediately commence with completing final design plans and preparing construction bids, including alternatives to manage the cost of the project upon execution of this agreement.
- B. Construction shall commence during 2009 if at all practicable and shall be completed in a timeframe acceptable to both the County and the City.
- C. It is understood that the County's total budget commitment to this project is \$5.5 million inclusive of bond issuance costs. A total of \$5.3 million will be dedicated to the purpose of designing, constructing, and equipping the Shelter. The costs of any increase in the scope of the project requested by the City beyond that described in Exhibit A shall be the responsibility of the City and will not be funded by the County. A schedule of equipment to be funded out of bond proceeds will be mutually agreed upon by the parties in connection with the issuance of the bonds.
- D. That before commencement of any improvement to be made by County as set forth, County agrees to submit plans and specifications to City, through City's Public Works Department, for approval before making any alteration on the premises. City agrees to provide all applicable building permits and building inspections at no fee to the County.
- E. In the performance of the work County shall abide all applicable laws, regulations and ordinance of all federal, state and local governments including, but not limited to provision of a payment and performance bond, payment of prevailing wage, compliance with immigration law, and excess unemployment if applicable and shall require the same of all contractors and subcontractors, provided that the applicability of local government laws and regulations shall be limited to those related to buildings.

The County will work closely with the City on the oversight of the construction of the project. City may elect to appoint a city representative as owners' co-representative on the project during the construction phase. City may also elect to have on site construction inspectors and project managers during the construction phase.

#### 4. INSURANCE.

- A. County shall be responsible for constructing the Animal Shelter substantially similar to the concept outlined as Preliminary Schematic, Rev. 2, which is attached as Exhibit A, and approved by the City, within the budget set forth in Section 2 herein. It is understood that modifications to the conceptual design will be undertaken as may be mutually agreed upon by the parties INSURANCE.
- B. While the facility is under construction, County shall maintain comprehensive insurance on the facility, including liability, property, and builder's risk insurance. The cost of such insurance shall be paid

by the County subject to the total construction cost limitation of paragraph 2 hereof. The City shall be named an additional insured.

- C. Upon completion of construction and occupancy by City, and throughout the remaining term of this Agreement, County shall provide comprehensive property insurance for the facility. Initially, County shall list the facility as an insured premise on County's umbrella property insurance policy for all County facilities. However, County shall have the option of providing property insurance for the facility via a stand-alone policy at any time during the term of this Agreement. City shall be named an additional insured.
- D. After occupancy, 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 the negligence attributable to the City and provided that the liability of the City for negligence shall be limited to this amount.
- E. Additionally, upon completion of construction and occupancy by City, City shall provide comprehensive general liability insurance for the facility and employees providing services at the Shelter and providing Animal Control Field Services outlined herein, naming County as an additional insured or provide evidence of self-insurance on the facility satisfactory to County. If City chooses to self-insure the facility against liability claims, City will defend and hold County harmless from any claims regarding the operation of the facility.

5. OPERATIONS. City shall administer and operate the Animal Shelter in accordance with City and County ordinances and pertinent state laws governing and controlling such administration and operation of municipal animal shelters. In no event shall the City be obligated to change the operation of the Animal Shelter through the passage of a County ordinance after the effective date of this agreement. County shall cooperate to authorize the necessary legal status for City personnel to operate within the County outside of the City's corporate boundaries. The City shall agree to operate the Shelter consistent with generally accepted state standards.

6. MAINTENANCE. City shall provide all maintenance of the facility and grounds including but not limited to routine maintenance and operation of the Animal Shelter Facility and bear the cost repair or replacement of all Facility components, such as the HVAC system(s) through agreed upon standards of maintenance;

7. TERM. The term of this agreement is for the duration of the original bond financing. Upon such time that the original debt for construction and equipping of the Animal Shelter has been paid by the County, the ownership of the Animal Shelter shall be changed by one of the following options: (a) the County shall convey the Animal Shelter to the City for \$1.00 (One Dollar), (b) the County shall convey the Animal Shelter to the City for \$1.00 (One Dollar) and the parties enter into a separate agreement

to provide animal control field services and sheltering for unincorporated areas and other locations; or (c) the City shall convey the Animal Shelter and the land on which it is situated to County for the value of the property in an unimproved condition as of the date of conveyance. Both parties shall express their intention on termination in writing to the other at least one year prior to the anticipated expiration of this agreement and the parties shall thereafter enter into negotiations and agree upon the ultimate disposition of the Animal Shelter facility and grounds. In the event the parties are unable to reach agreement, the matter shall be submitted to mediation, under such procedures as the parties may agree upon. If the matter remains unresolved after mediation, the issues shall be submitted to a court with general jurisdiction.

#### 8. ANIMAL CONTROL FIELD SERVICES.

A. Timing. Upon occupancy of the new Shelter, the City shall commence in providing both animal control services including field services/patrolling, on call services, and sheltering services for the unincorporated areas of Jackson County and Jackson County parks.

B. General Administration. The City shall employ, train, and supervise all necessary personnel to perform the services required by this Agreement including requiring proper certification and training for the use of tranquilizing equipment or other equipment to render animals incapacitated or to perform euthanasia when appropriate. The City will train its personnel to ensure courteous interaction with the public; and shall maintain written policies governing employee conduct and training programs. The City shall outfit and equip all personnel required to operate the Shelter and to provide field services.

C. Availability. The City shall provide the designated field services to Jackson County as follows: Routine services will be provided during regular service hours from 8:00 a.m. to 5:00 p.m. Monday through Friday; emergency on call services will be provided after regular field service hours as needed twenty-four hours a day, seven days a week. Emergency calls will be coordinated with the Sheriff's Office to coordinate with the City for response. Emergencies will be defined as animal bites, extremely aggressive animals, extreme animal abuse, and injured animals.

D. Patrol and Enforcement Services. The City shall provide animal control patrol and enforcement service in the unincorporated areas of the County equivalent to one full time Animal Control officer during regular field service hours. The geographical distribution and animal control service coverage shall be flexible to meet the peak daily and seasonal demands. The County Executive or a designee may, after consultation with the City's City Manager or a designee, request the City modify its hours or geographical location to meet the demands for services within the County.

E. Requests for Services. All County animal control inquiries and requests for animal control services in the unincorporated area and

Jackson County parks will be handled by City personnel. Emergency calls will be coordinated through the Sheriff's Office. After hours request for information concerning animal control and animal welfare will be provided by the City when feasible. The City shall make its staff available for public speaking events as reasonably requested Court Appearances. The City staff shall appear in Court as necessary in connection with any enforcement action and for all other hearings on County related animal control matters when notified and when appropriate.

- F. Field Services. Field services provided by the City under this contract shall include but are not limited to response to and resolution of calls involving confined animals, at-large animals, sick or injured animals, vicious animals, cruelty and abandonment; to include impoundment and housing of animals at the Animal Shelter Facility; and investigation and enforcement of any cruelty or abandonment case in the County. Animal Bites. The City shall act as agent of the County in relation to animal bites and rabies testing within the designated area of the County. Such activities shall include but are not limited to investigation of all reported bites and quarantine of biting animal pursuant to County ordinances and policies.
- G. Ungulate (Hoofed) Animal Control. The City shall provide pick up of stray hoofed animals and board for animals, including same day response to pick up and retaining of animals in the unincorporated areas of Jackson County. The City shall provide ungulate animal services during regular field services hours, as well as emergency after hours services. If necessary, City shall make provisions with veterinarian services if emergency treatment is needed. The City must attempt to identify ownership of the animals for return to the owner; and may attempt to sell or adopt all unclaimed animals before humane disposal.
- H. Cost of Providing Services. The City shall provide these services to the County at no cost during the term of the bond repayment not including any refinancing period which extends the term of the bond repayment beyond the initial bond period. In no event shall the City's obligation hereunder extend beyond thirty (30) years from the effective date. The County will have the financial obligation to retire the debt related to the design, construction, and equipping of the new Shelter. The City shall be permitted to bill political subdivisions within the County for services rendered pursuant to this agreement and contained within subagreements.

## 9. SUBAGREEMENTS WITH POLITICAL SUBDIVISIONS.

City agrees to offer animal control field services and sheltering at a commercially reasonable fee to the cities that currently have Agreements with Jackson County. These cities include Buckner, Greenwood, Levasy, Lone Jack, Sibley, and Unity Village. However, this

Agreement does not bind these cities to enter into an agreement with the City. The City would retain any revenue generated from agreements with these specific jurisdictions.

10. EDUCATIONAL INSTITUTION PARTNERSHIP. City and County shall cooperate with the Metropolitan Community College system and other educational institutions operating within Jackson County to maximize the use of students who are pursuing an education in veterinary and similar life sciences programs. The specific expectations, requirements and responsibilities for such programs shall be negotiated between the parties as separate Agreements.

11. SHELTER OPERATION.

- A. Public Access. City shall keep the shelter open to the public six days per week, Monday through Saturday, 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. City shall have the right to reduce shelter services due to budget issues provided the City shall notify County and demonstrate that the reduction is proportional to other City obligations and due to a lack of funds.
- B. Services Provided. The City shall agree to provide shelter space for small animals as a part of the Animal Control Services being provided to the County for a minimum of six (6) business days holding period. The staff of the Shelter shall provide care to these animals including but not limited to food, shelter, necessary veterinary care, etc. Small animals, dogs and cats will be disposed of pursuant to the City's ordinances and at City costs. All adoption fees, boarding fees, and other applicable fees collected at the Shelter 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, the pet shall be spayed or neutered. The City agrees to provide said services through the Shelter.
- C. Ungulate (Hoofed) Animal Control. The City shall provide pick up of stray hoofed animals and board for animals, including same day response to pick up and retaining of animals in the unincorporated areas of Jackson County. The City shall make provisions to provide ungulate animal services during regular field services hours, as well as emergency after hours services. If necessary, City make provisions to veterinarian services if emergency treatment is needed. The City must attempt to identify ownership of the animals for return to the owner; and may attempt to sell or adopt all unclaimed animals before humane disposal.

12. AUTHORITY TO ACT. County hereby designates the City as the appointed agent of the County to act on County's behalf in the unincorporated portions of the County to enforce all ordinances of the County relating to animal control. This Authority will commence upon occupancy of the shelter. The City shall follow the provisions of the applicable codes, as they may be amended, and all applicable state and federal laws and regulations in the provision of such animal control services and in provision of all other services set forth herein. The County shall routinely provide City with updated laws or regulations authorized by the County that must be enforced by the City as a part of City's field services.

13. REPORTING AND PERIODIC INSPECTIONS. The City shall provide the County with monthly reports concerning the City's performance under this Agreement including the number and type of County related request for services, the number of individuals receiving citations and/or notices; and the number of animals sheltered. The City shall grant reasonable access to the facility for periodic inspections by the County during the term of this agreement.

14. HOLD HARMLESS.

A. After construction is completed and the facility is operational, to the fullest extent permitted by laws and regulations, County shall indemnify and hold harmless City, and the 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 County'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 County 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.

15. NOTICES. Notices to either party in connection with this Agreement shall be made in writing and mailed to the following addresses, or such other address as the signatory shall designate:

County: County Executive  
Jackson County, Missouri  
415 E. 12<sup>th</sup> Street  
Kansas City, Missouri 64106

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

16. SIGNS AND ADVERTISEMENTS. County and City agree that they shall not erect or maintain nor permit the erection or maintenance upon any part of the Shelter premises any billboards or advertisements whatsoever, but that the parties contemplate that an appropriate sign or marker designating the Shelter may be erected and maintained upon approval of both parties.

17. CUMULATIVE REMEDIES. The duties and obligations imposed by these General Conditions 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 Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents. The provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18. SURVIVAL OF OBLIGATIONS. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of City.

19. CONTROLLING LAW. This Contract is to be governed by the law of the State of Missouri.

20. VENUE. Venue of any lawsuit filed regarding the Project or arising out of this Contract will be in the Circuit Court of Jackson County, Missouri.

21. HEADINGS. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

22. COUNTERPARTS. This Contract may be executed in one or more counterparts, each of which shall constitute an original and which, when taken together, shall constitute one entire Contract. 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 Contract.

23. FAX SIGNATURES. For purposes of this Contract, a document (or signature page thereto) signed and transmitted by facsimile machine or telecopier 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 documents 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 or telecopy document is to be re-executed in original form by the parties who executed the facsimile or telecopy document. No party may raise the use of a facsimile machine or telecopier or the fact that a signature was transmitted through the use of a facsimile or telecopier machine as a defense to the enforcement to this Contract or any amendment or other document executed in compliance with this paragraph.

24. EFFECTIVE DATE. This Agreement shall become effective upon approval by the governing bodies of the City and the County.

25. TERMINATION. The City or County may terminate this Agreement for Cause upon giving 30 days' notice in writing to the other party. "Cause" for City to act includes County's failure to timely make any payment on the bonds. "Cause" for County to act includes City's abuse or mistreatment of animals, failure to operate the shelter with generally accepted state standards, or failure to properly maintain the facility. If one party gives the other notice of intent to terminate for cause, the non-terminating party shall have 90 days to cure remedy the condition giving rise to the termination.

26. ASSIGNMENT. Neither party may assign their rights and obligations under this Contract without the prior written consent of the other party, which consent shall not be unreasonably withheld.

27. THIRD PARTY RIGHTS. Nothing in this contract shall be construed to give any rights or benefits to anyone other than City and County.



BILL NO. 09-082

ORDINANCE NO. 17332

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERGOVERNMENTAL COOPERATIVE AGREEMENT WITH JACKSON COUNTY, MISSOURI, FOR THE CONSTRUCTION AND OPERATION OF AN ANIMAL SHELTER TO SERVE THE CITY OF INDEPENDENCE AND JACKSON COUNTY.

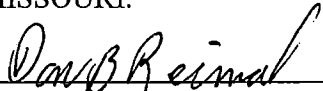
WHEREAS, The City and Jackson County have previously entered into an agreement to determine the feasibility of constructing an animal shelter to serve the City and Jackson County; and,

WHEREAS, the City and Jackson County have determined that it is in the best interest of the citizens of the City and Jackson County to enter into an intergovernmental agreement that will, among other things, authorize the County to construct the shelter on City owned-property, and will authorize the City to operate the shelter and provide field services to the City and to Jackson County;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI, AS FOLLOWS:

SECTION 1. That the City Manager of the City of Independence, Missouri, is hereby authorized and directed to execute for and on behalf of said City, a certain Intergovernmental Cooperative Agreement between said City and Jackson County, Missouri, substantially the same as and in conformance with the Intergovernmental Cooperative Agreement, which is referenced herein, and attached hereto.

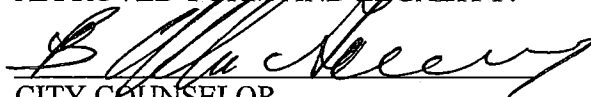
PASSED THIS 1st DAY OF JUNE, 2009, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

  
\_\_\_\_\_  
Presiding Officer of the City Council  
of the City of Independence, Missouri

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED-FORM AND LEGALITY:

  
\_\_\_\_\_  
CITY COUNSELOR

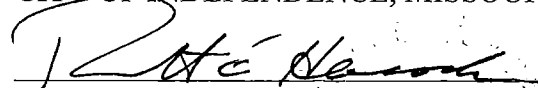
REVIEWED BY:

  
\_\_\_\_\_

28. ENTIRE AGREEMENT. This Contract constitutes the entire agreement between the parties hereto and there are no other understandings, written or oral, relating to the subject matter hereof, and may not be changed, modified or amended, in whole or in part, except in writing signed by County and City.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the 30 day of June 2009.


CITY OF INDEPENDENCE, MISSOURI

  
Robert Heacock, City Manager Ord. #17332

ATTEST:

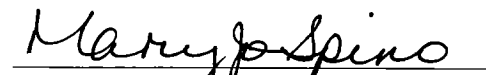
  
Jane Sharon, City Clerk

APPROVED AS TO FORM


  
B. Allen Garner, City Counselor  
City of Independence, Missouri

  
Mike Sanders, County Executive

ATTEST:

  
Clerk of the Legislature

APPROVED AS TO FORM

  
Mark S. Jones  
JACKSON COUNTY COUNSELOR