

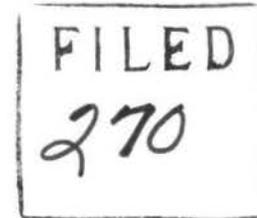
COOPERATIVE AGREEMENTS:  
WATER SUPPLY DISTRICTS:  
CITIES, TOWNS AND VILLAGES:

A public water supply district organized under the provisions of Sections 247.010 to 247.220, RSMo 1969, and a city having a waterworks system are authorized under Section 16 of Article VI of the Missouri Constitution and Sections 70.210, RSMo 1969 et seq. to enter into a cooperative agreement for the joint development and financing of a common water supply source.

May 19, 1971

OPINION NO. 270

Honorable Robert H. Martin  
Representative, District 19  
State Capitol - Room 401B  
Jefferson City, Missouri 65101



Dear Representative Martin:

This opinion is in response to your question in which you ask:

"Can a public water supply district organized under Chapter 247, R.S.Mo., enter into a cooperative agreement with a city under Chapter 70.220 etc., R.S.Mo., for the joint development and financing of a common water supply source?"

Section 70.210, RSMo 1969, states:

"Definitions - As used in sections 70.210 to 70.320, the following terms mean:

- "(1) 'Governing body', the board, body or persons in which the powers of a municipality or political subdivision are vested;
- "(2) 'Political subdivision', counties, townships, cities, towns, villages, school, county library, city library, city-county library, road, drainage, sewer, levee and fire districts, soil and water conservation districts, watershed subdistricts, and any board of control of an art museum."

Section 70.220, RSMo 1969, states:

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"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 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."

Public water supply districts organized under Sections 247.010 to 247.220, RSMo 1969, known as "county districts", are, under Section 247.020 expressly designated as "political corporations".

Under Section 247.050, RSMo 1969, such districts have, among other powers, the powers:

- "(5) To build, acquire by purchase or otherwise, enlarge, improve, extend and maintain a system of waterworks, including fire hydrants;
- "(6) To contract and be contracted with; . . .
- "(10) To acquire by purchase or otherwise, a system of waterworks, and to build, enlarge, improve, extend and equip such system for the uses and purposes of the district;"

We have noted that under the definition section, Section 70.210, a "political subdivision" expressly includes certain units of government. That section does not expressly mention public water supply districts.

However, Section 70.220, which we have also quoted above authorizes cooperation by municipalities as well as political subdivisions as defined.

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The cooperative agreement sections noted above are in implementation of the provisions of the Missouri Constitution Section 16, Article VI which states:

"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."

The Supreme Court of Missouri has held that Section 70.220 follows the language of the constitutional provision but further spells out the requirement implicit in the Constitution that the subject and purposes of the cooperative contract or action shall be within the scope of the powers of the municipality or political subdivision. This constitutional provision is a specific grant or recognition of authority. School District of Kansas City v. Kansas City, 382 SW2d 688 (En banc 1964).

It is clear of course that a city is both a municipality and a "political subdivision" as defined in Section 70.210. In our view although such a water supply district is not expressly defined as a political subdivision in that section, it is nevertheless a municipality. In St. Louis Housing Authority v. City of St. Louis, 239 SW2d 289 (En banc 1951), the Supreme Court of Missouri held that the City of St. Louis and the St. Louis Housing Authority are "municipalities" as such term is used in Section 16 of Article VI of the Constitution. In reaching this conclusion, the court noted that the terms "municipality" and "municipal corporation" are often interchangeably used. The Court further held that a "municipal corporation" in the broader sense includes a public corporation created to perform an essential public service and is applied to any public local corporation exercising some function of government. *Id.*, 295. Further in State ex rel Halferty v. Kansas City Power & Light Co., 145 SW2d 116, 122 (1940), the Missouri Supreme Court noted that a water supply district is denominated as a "political corporation" by the act under which it was organized and that it "might be termed a 'municipal corporation' in the broad sense, sometimes attributed to that term". The precise question decided in that case however, was whether such a water supply district is a "municipal township" as that term is used in certain tax statutes and the court held a water supply district is not a municipal township.

In the premises, it is our view that such a water supply district is a "municipality" within Section 16 of Article VI of the Missouri Constitution and the implementing statutes

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Sections 70.210 et seq. As noted above from our quotations relative to the powers of such water supply districts, the subject and purposes of the contract or cooperative action inquired about in the opinion request would be within the scope of the powers of such a district since in this instance the cooperative agreement is for the purpose of the joint development and financing of a common water supply source.

It is clear that cities can enter into contracts under Sections 70.210 et seq. and under Section 91.010, RSMo 1969, cities, towns, and villages in this state "have the power to erect, maintain and operate waterworks, or to acquire waterworks by purchase and to operate and maintain the same, and to supply the inhabitants thereof with water".

Although we do not have the details of the contract under consideration or the identity of the public water supply district or the particular city involved, it is our view that a public water supply district organized under the provisions of Sections 247.010 to 247.220, RSMo, is authorized to enter into a cooperative agreement with a city which has a waterworks system, for the joint development and financing of a common water supply source.

CONCLUSION

It is the opinion of this office that a public water supply district organized under the provisions of Sections 247.010 to 247.220, RSMo 1969, and a city having a waterworks system are authorized under Section 16 of Article VI of the Missouri Constitution and Sections 70.210, RSMo 1969 et seq. to enter into a cooperative agreement for the joint development and financing of a common water supply source.

The foregoing opinion which I hereby approve was prepared by my assistant John C. Klaffenbach.

Very truly yours,



JOHN C. DANFORTH  
Attorney General