

City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: B 195-15

Department Source: Information Services

To: City Council

From: City Manager & Staff

Council Meeting Date: 7/6/2015

Re: Agreement between City of Columbia and Bates County to share City of Columbia's Police K-9 Tracking Program.

Documents Included With This Agenda Item

Council memo, Resolution/Ordinance, Exhibits to Resolution/Ordinance

Supporting documentation includes:

Executive Summary

The purpose of this agreement is to grant a licence to Bates County for the use of the City of Columbia's Police K-9 Tracking Program that was developed by the City of Columbia's Information Technologies Department.

Discussion

The City of Columbia's Information Technology department has created software to track the use and training of Police K-9s for the Columbia Police Department. The Information Technology department would like to share this software, free of charge, with the Bates County Sheriff's Office. This will be the the first software package shared via the Information Technologies cITySOFT software sharing project. This is a project that will be used to encourage software development and sharing between government agencies.

Fiscal Impact

Short-Term Impact: No financial impact.

Long-Term Impact: No financial impact.

Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Community Pride and Human Relations

Strategic Plan Impact: Not Applicable

Comprehensive Plan Impact: Inter-Governmental Cooperation

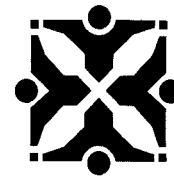
Suggested Council Action

Should Council agree, staff recommends passage of the ordinance.

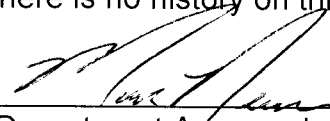
Legislative History

City of Columbia


701 East Broadway, Columbia, Missouri 65201



There is no history on this item.



Department Approved



City Manager Approved

Introduced by _____

First Reading _____

Second Reading _____

Ordinance No. _____

Council Bill No. B 195-15

AN ORDINANCE

authorizing a license agreement with Bates County, Missouri for use of the City of Columbia police canine tracking software program; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute a license agreement with Bates County, Missouri for use of the City of Columbia police canine tracking software program. The form and content of the agreement shall be substantially in the same form as set forth in "Exhibit A" attached hereto.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this _____ day of _____, 2015.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

**AGREEMENT
BETWEEN THE
CITY OF COLUMBIA, MISSOURI
AND
BATES, COUNTY MISSOURI
FOR USE OF THE
CITY'S POLICE CANINE TRACKING SOFTWARE PROGRAM**

THIS AGREEMENT (the "Agreement") is entered into by and between Bates County, Missouri, through its County Commission, a political subdivision of the State of Missouri, (hereinafter "County") and the City of Columbia, Missouri, a political subdivision of the State of Missouri, (hereinafter "City"), on the date of the last signatory noted below (hereinafter "Effective Date"). City and County are each individually referred to herein as a "Party" and collectively as the "Parties".

WHEREAS, City's Information Technology department has developed a software program for tracking the use and training of police canines (hereinafter City's Police Canine Tracking Program"); and

WHEREAS, County desires to use the City's Police Canine Tracking Program to track the County's police canines; and

WHEREAS, City is willing, subject to the terms and conditions set forth in this Agreement, to grant County a license for the County's use of City's Police Canine Tracking Program.

WITNESSETH:

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

1. Purpose. The purpose of this Agreement is to formalize the understanding between the Parties and for City to provide County with a license for the use of the City's Police Canine Tracking Program.
2. Ownership and License of the City's Police Canine Tracking Program.
 - a. City shall retain all ownership of, including all intellectual property rights in and to, the City's Police Canine Tracking Program.
 - b. County acknowledges and agrees that City's Police Canine Tracking Program is proprietary to City and has been developed at City's sole expense.
 - c. Grant of License to City's Police Canine Tracking Program. City grants County a non-exclusive, non-transferable, royalty-free, revocable license to use City's Police Canine Tracking Program for County's business purposes only and otherwise

subject to the terms and conditions of this Agreement. The license is revocable by City if County fails to comply with the terms and conditions of this Agreement.

3. County's Use of City's Police Canine Tracking Program. County shall use City's Police Canine Tracking Program for the tracking of the use and training of County's police canines, including the generation of reports related thereto, and for no other purpose.
4. County's Responsibilities.
 - a. Within thirty (30) days of the Effective Date, County shall provide to City an electronic image of County's logo in a form acceptable to City.
 - b. County shall install the City's Police Canine Tracking Program in an environment as set forth in Attachment A.
5. City's Responsibilities.
 - a. Within sixty (60) days of receipt of the electronic image of County's logo, City shall provide City's Police Canine Tracking Program to County with County's logo integrated into the City's Police Canine Tracking Program.
 - b. City shall also provide initial off-site training and assistance with the installation of the City's Police Canine Tracking Program as needed, in an amount of time not to exceed eight (8) hours. Initial training and assistance with the installation shall be arranged on a schedule mutually agreed to by the Parties. Should County desire City to provide on-site training at County's site, County shall pay all City's expenses relating thereto, including reimbursement of City's staff's salary, transportation and related costs.
 - c. City has no obligation to provide fixes, updates, upgrades, maintenance and or support of the software. City in its sole discretion may offer fixes, updates, upgrades, or other maintenance and support. If City does offer fixes, updates, upgrades or other maintenance and support, the services and software shall be subject to the terms of this Agreement.
6. DISCLAIMER OF WARRANTIES. THE PARTIES AGREE THAT CITY IS PROVIDING THE LICENSE, SOFTWARE AND SERVICES, AS-IS AND WITHOUT ANY WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND SYSTEM INTEGRATION WHICH ARE HEREBY DISCLAIMED BY CITY.
7. Confidentiality and Closed Records.
 - a. General. Both Parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities. Each Party agrees that it shall not disclose any confidential information of the other Party and further agrees to take appropriate action to prevent such disclosure by its employees or agents. The confidentiality

covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:

- i. At the time of the disclosure is in the public domain;
 - ii. After disclosure, becomes part of the public domain by publication or otherwise, except by breach of this Agreement by a Party;
 - iii. A Party can establish by reasonable proof was in that Party's possession at the time of disclosure;
 - iv. A Party receives from a third party who has a right to disclose it to that Party;
 - v. Is considered an open record pursuant to the Missouri Sunshine Law. The receiving Party shall give prompt notice of the service of process or other documentation that underlies the Sunshine request. The disclosing Party reserves the right to obtain protective order or otherwise protect the confidentiality of its confidential information.
- b. Confidentiality of the Software Code. The Parties agree that the underlying software code for City's Police Canine Tracking Program is a closed record pursuant to Missouri State Statute Section 610.021(21). The Parties agree that disclosure of the underlying software code for the City's Police Canine Tracking Program may allow unauthorized access to and or unlawful disruption of a computer system. Disclosure of the underlying software code for City's Police Canine Tracking Program, without the written consent of the City, is a material breach of this Agreement and shall result in a revocation of County's license for the use of the City's Police Canine Tracking Program. This provision shall survive termination of the Agreement.

8. Term. The "Term" of this Agreement shall commence on the Effective Date, and shall continue until the date that is one (1) year following the Effective Date. Thereafter, the Agreement shall automatically be renewed for successive terms of one (1) year, unless the Agreement is terminated pursuant to the provisions of this Agreement.
9. Termination.
 - a. By Mutual Agreement. This Agreement may be terminated at any time during its Term upon mutual agreement by both Parties.
 - b. By Convenience. With thirty (30) days written notice, either Party may terminate this Agreement for convenience.
 - c. By Default. Either Party may terminate this Agreement in accordance with Section 10.
10. Termination upon Default. Upon the occurrence of an event of Default, the non-Defaulting Party shall be entitled to immediately terminate this Agreement. A Party shall be considered in Default of this Agreement upon:
 - a. The failure to perform or observe a material term or condition of this Agreement, including but not limited to any material Default of a representation, warranty or covenant made in this Agreement;

- b. The Party (i) becoming insolvent; (ii) filing a voluntary petition in bankruptcy under any provision of any federal or state bankruptcy law or consenting to the filing of any bankruptcy or reorganization petition against it under any similar law; (iii) making a general assignment for the benefit of its creditors; or (iv) consenting to the appointment of a receiver, trustee or liquidator;
 - c. The purported assignment of this Agreement in a manner inconsistent with the terms of this Agreement;
 - d. The failure of the Party to provide information or data to the other Party as required under this Agreement, provided that the Party entitled to the information or data under this Agreement requires such information or data to satisfy its obligations under this Agreement.
11. **Effect of Termination.** If this Agreement is terminated, County shall either return to City all copies of the City's Police Canine Tracking Program or shall certify to City that County has destroyed all copies of the City's Police Canine Tracking Program.
12. **No Assignment.** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Neither Party shall assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party.
13. **Notices.** Any notice, demand, request, or communication required or authorized by the Agreement shall be delivered either by hand, facsimile, overnight courier or mailed by certified mail, return receipt requested, with postage prepaid, to:

If to City:

City of Columbia
 Information Technology Department
 P.O. Box 6015
 Columbia, MO 65205-6015
 ATTN: Director

If to County:

Bates County

The designation and titles of the person to be notified or the address of such person may be changed at any time by written notice. Any such notice, demand, request, or communication shall be deemed delivered on receipt if delivered by hand or facsimile and on deposit by the sending party if delivered by courier or U.S. mail.

14. **No Third-Party Beneficiary.** No provision of the Agreement is intended to nor shall it in any way inure to the benefit of any customer, property owner or any other third party, so as to constitute any such Person a third-party beneficiary under the Agreement.
15. **Amendment.** No amendment, addition to, or modification of any provision hereof shall be binding upon the Parties, and neither Party shall be deemed to have waived any

provision or any remedy available to it unless such amendment, addition, modification or waiver is in writing and signed by a duly authorized officer or representative of the applicable Party or Parties.

16. **Governing Law and Venue.** This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the State of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of, or relating to this Agreement, shall be in Boone County, Missouri, or the United States Western District of Missouri. The Parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Missouri. The Parties agree to waive any defense of forum non conveniens.
17. **General Laws.** County shall comply with all federal, state, and local laws, rules, regulations, and ordinances.
18. **No Waiver of Immunities.** In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either Party's rights or defenses with regard to each Party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitutions or laws.
19. **HOLD HARMLESS AGREEMENT.** To the fullest extent not prohibited by law, County shall indemnify and hold harmless the City of Columbia, its directors, officers, agents, and employees from and against all claims, damages, losses, and expenses (including but not limited to attorney's fees) for bodily injury and/or property damage arising by reason of any act or failure to act, negligent or otherwise, of County, of any subcontractor (meaning anyone, including but not limited to consultants having a contract with County or a subcontractor for part of the services), of anyone directly or indirectly employed by County or by any subcontractor, or of anyone for whose acts the County or its subcontractor may be liable, in connection with County's use of City's Police Canine Tracking Program or the services provided pursuant to this Agreement. This provision does not, however, require County to indemnify, hold harmless, or defend the City of Columbia from its own negligence.
20. **Authority.** The individuals signing this agreement below certify that they have obtained the appropriate authority to execute this Agreement on behalf of the respective Parties.
21. **Contract Documents.** This Agreement includes the following attachments or exhibits, which are incorporated herein by reference:

Attachment/Exhibit

A

Description

Technical Environment

In the event of a conflict between the terms of an exhibit and the terms of this Agreement, the terms of this Agreement controls.

22. Entire Agreement. This Agreement represents the entire and integrated Agreement between County and City relative to County's license to use City's Police Canine Tracking Program. All previous or contemporaneous agreements, representations, promises and conditions relating to County's license to use City's Police Canine Tracking Program described herein are superseded.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF the Parties through their duly authorize representatives have executed this Agreement effective as of the date of the last party to execute the same.

CITY OF COLUMBIA, MISSOURI

BATES COUNTY, MISSOURI

By: _____
Mike Matthes, City Manager

By: _____
Jim Wheatle, Presiding Commission

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____
Sheela Amin, City Clerk

By: _____
Marlene Wains, County Clerk

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Nancy Thompson, City Attorney

By: _____
Hugh Jenkins, County Counselor

Date: _____

Date: _____

COUNTY AUDITOR CERTIFICATION: I hereby certify that a sufficient, unencumbered appropriation balance exists and is available to satisfy the obligation arising from this Agreement. (Note: Certification of this contract is not required if the terms of this contract do not create a measurable county obligation at this time.)

By: _____, County Auditor

Date: _____

Attachment A

Technical Environment

Required technical environment includes:

Adobe Coldfusion 10 or greater

MSSQL (Microsoft SQL server or Microsoft SQL Express)

A data source in Coldfusion connections to MSSQL named “dscommon”

Web server accessible by Coldfusion