



Contract for Health, Social, or Recreational Services

Minn. Stat. § 365.10, subd. 14

As general-purpose local governments, townships may engage in a variety of activities for the betterment of the community. To facilitate those activities, the legislature allows townships to enter contracts for health, social, or recreational services. There are limits to this authority and to what groups may receive them. Township boards should understand when they may use this statute and when its inappropriate to do so.

I. Health, Recreational, or Social Services

The service provided must be for a health, recreational, or social service to be eligible. This offers a broad range of service that may be provided. Some examples include: recreational sports or activities, public health screenings, shelters for battered women, first responder support, and treating invasive aquatic species. Other uses are possible, but they must somehow relate to a government purpose or function of government. This is required by the public purpose doctrine, which sets a general limitation on government spending.

II. Non-Profit Organizations

The statute allows the township to contract with non-profit organizations. Non-profit organizations are companies that are exempt from taxation by the Federal and State governments. They receive the exemption because the services they provide are deemed to be important enough to subsidize them through a tax exemption. There are a variety of non-profit organization types. For example, many people are familiar with the 501(c)(3) charitable organization. Other non-profit organizations include federal credit unions, title holding organizations, civic leagues & social welfare organizations, labor & agricultural unions, trade associations, fraternal societies, mutual insurance companies, among many others. Not all organizations that do good work qualify for non-profit status, so the township board should seek some documentation or assurance that the group receiving the funds is actually a non-profit.

The fact that an organization is a non-profit, by itself, is not enough to allow a contract with the organization. Some non-profit organizations do wonderful work, but the work may not be related to the township's function or interest.

III. Elector Authorization & Spending Limit

This power becomes available to the Board only if the township voters authorize its availability by vote at the annual meeting. The motion is offered at the annual meeting and requires a simple majority to approve. The voters', however, do not decide what organizations the township may contract with once the power is authorized. That power is left to the township board. The Board may choose whether to contract with any organization for health, welfare, or recreational services, and how much of the \$10,000 the township will spend on that contract. The Board may also refuse to enter into any of these contracts.

The statute sets a limit on the total amount of \$10,000 per year that may be spend on social, health, and recreational contracts. MAT understands that limit to be an aggregate limit, so all contracts made using this statute cannot cost more than \$10,000 per year. If one contract used the entire \$10,000, then the township could not make another contract using this power during the same year. The town board should therefore be cautious in the use of this power.

Sample Motion for the Annual Meeting

"I move to authorize the Board of Supervisors to make contracts for health, social, and recreational purposes under Minn. Stat. § 365.10, subd. 14."

IV. Board of Supervisors Role & Power to Refuse

The Board of Supervisors is the only entity that may enter into a contract on behalf of the township. Therefore, the Board will decide whether to use the authority given to them by the voters and how much of the \$10,000 they will spend on a contract. The Board cannot simply make the contracts directed by the voters, and instead must carefully consider if a group and service meet the requirements of the statute. The Board always has the option of refusing to use the power at all, and in some cases, should not be entering into these contracts. For example, a township struggling to meet their obligations and duties related to their roads probably does not have the resources to contribute to these contracts.

V. A Word of Caution

Contracts for health, social, or recreational services are not a way to give township funds to organizations that could not otherwise receive them. They are not a different means to donate or give a gift. The contracts should provide the township with something it did not or would not have, but for the contract. A contract is formed when the parties reach a meeting of the minds and have promised each other something of value. Therefore, a contract that does not provide anything of value to one of the parties would be deemed ineffective.

VI. Sample Contract

The Sample Contract that follows may be used to establish the obligations of the township and the service provider. If the Sample Contract is not used, the township should ensure some other contract is used to demonstrate the exchange of money and services, and to allow the township to hold the organization accountable if they fail to deliver the service.

CONTRACT FOR HEALTH, SOCIAL, OR RECREATIONAL SERVICES

Minn. Stat. § 365.10, subd. 14

WHEREAS, _____ Township, _____ County, Minnesota (hereinafter “Town”) is authorized under Minn. Stat. § 365.10, subd. 14 to contract with nonprofit organizations for up to \$10,000 a year for health, social, and recreational services if authorized by the town electors and the Town Board considers the services to be in the public interest and good for the town;

WHEREAS, _____ (hereinafter “Organization”) is a nonprofit organization that has the capability to provide health, social, or recreational services to those within Town;

WHEREAS, at the annual Town meeting held on March _____, 20_____, the Town electors voted to authorize Town to expend up to \$_____ to contract for services from the Organization;

WHEREAS, the amount authorized to be expended on the contract with Organization does not cause Town to exceed the \$10,000 cumulative limit that can be expended under Minn. Stat. § 365.10, subd. 14 in a year; and

WHEREAS, the Town Board of Supervisors considers the services delivered by Organization to be in the public interest and good for Town;

NOW, THEREFORE, in consideration of the mutual promises made herein and for other valuable consideration the receipt of which is hereby acknowledged, Town and Organization agree as follows:

1. **Services Provided.** Organization agrees to provide or make available the following services to those living within Town:

[describe the services]

2. **Term.** This Agreement shall be in effect for one year from the date of execution indicated below unless a different term is set forth here:
3. **Cost.** Town agrees to pay Organization a lump sum of \$_____ for the services it is to provide under this Agreement.
4. **Indemnification, Hold Harmless and Defend.** Any and all claims that arise or may arise against Organization, its agents, servants, or employees as a consequence of any act or omission on the part of the Organization or its agents, servants, or employees while engaged in the performance of the Agreement shall in no way be the obligation or responsibility of Town.

Organization shall indemnify, hold harmless, and defend Town, its officers, agents, and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney fees which Town, its officers, agents, or employees may hereafter sustain, incur, or be required to pay, arising out of or by reason of any act or omission of Organization, its agents, servants or employee, in the execution, performance, or failure to adequately perform Organization's obligations pursuant to this Agreement. Nothing in this Agreement shall constitute a waiver by Town of any statutory limits or immunities from liability.

5. **Independent Contractor.** Organization acknowledges and agrees that it is an independent contractor and that nothing herein shall be construed to create the relationship of employer and employee between Town and Organization or of any obligations or commitments beyond the terms of this Agreement.

6. **Modification & Termination.** Any alterations, variations, modifications, or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, and signed by Town and Organization. Town may terminate this Agreement, with or without cause, upon 30 days written notice.

7. **Legal Compliance.** Organization shall abide by all federal, state, or local laws, statutes, ordinances, rules, and regulations now in effect or hereinafter adopted pertaining to this Agreement or to the facilities, programs, and staff for which Organization is responsible. Organization shall procure, at Organization's expense, all permits, licenses, or other rights required for the provision of the services contemplated by this Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the ___ day of _____, 20____.

For _____ Township

For the Organization

Chairperson

Signature

Date: _____

Printed Name

Attested by: _____
Clerk

Date: _____