



Light 'Em Up: Fire Contracts

2019 Spring Short Course – Supervisors

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Negotiation:

- Everything is negotiable – Everything
- There is no 'state contract'
- Begin Negotiations early so you cannot be hurried into a decision or a corner
- All those contracting with the provider should be working together to jointly negotiate the best terms for all parties.
- Explore other options
- Know the Numbers: How much is the fire dept budget? And how much is contributed by the township and all contracting parties?

Define the Service Area:

- *"The Fire Department shall respond to any and all fire and emergency calls it receives from the following sections of the Township: ____, ____, ____, etc."*

Define the Services Provided

- *"Fire service provided by the City to the Township includes general structural and nonstructural, grass and forest, and vehicle firefighting and general rescue services including vehicle and equipment extraction and general search and rescue, but excludes hazardous materials response, emergency medical services, fire code enforcement and high level, water and confined space rescue."*

Equal Footing During Concurrent Emergencies

- *"In the event a fire call by the Township is answered by the City, but before the fire in question is extinguished, the fire fighting equipment or volunteer firemen, or both, are needed to fight another fire in the Fire District or to respond to another emergency elsewhere in the Fire District, the Chief or his Deputy without liability therefore to any person or to the Township under this agreement, may in their judgment, redeploy the fire fighting equipment, volunteer firemen and emergency response equipment as they deem necessary given the competing emergency situations."*

Price Formula

- Formula should be predictable and be used each year
- If possible, negotiate a limit on the maximum price increase in any year
- There are several different formulas
- *"The Township shall annually pay the City for fire services provided under this Agreement according to the following formula:*

$$\frac{FDE \times (\% \text{ of calls to Twp} + \% \text{ of taxable tax capacity in Twp})}{2}$$

2

$$\frac{\$150,000 \times (24\% + 20\%) = \$33,000 \text{ Paid by Township}}{2}$$

2

[FDE is the Total Fire Department Expense]

Liability and Indemnity Provisions

- Everyone should pay for their own mistakes
- City or Independent controls the department, fight fighter training, condition of the materials and equipment, management of funds and personnel. The provider should be responsible for shortcomings and negligence in their operation.
- Contract should provide that the City/Independent will indemnify the Township against claims arising from the Provider's negligence in providing fire & rescue services to the Township.
- Contract should require the department to carry adequate insurance and proof of insurance to the Township.
- *"The City shall indemnify and defend the Township from all claims arising out of the negligence of the City, its employees, officers or agents in performing its duties under this Agreement."*

Ownership

- If the township does not own Fire Department property, it should strive to create a budget committee that includes members from the provider and all jurisdictions served by contract. All have an interest in the costs of the department and will have a say in what they agree to pay for service. Committee helps avoid unexpected budget increases and demands for payment.

Termination of Service

- Longer termination period is best for the township – prevents holding townships hostage
- May set up to ten-year contract term (Minn. Stat. § 365.181) but should allow some method of termination with about 1-year notice.
- *"Either party may terminate this Agreement by delivering notice to the other parties prior to December 31st. Such termination shall be effective on the second December 31st following delivery of such notice."*

Service Charges

- Township should keep the power to charge emergency service fees under Minn. Stat. § 366.011.
- If the City bills emergency service charges directly, the amount they collect should reduce the township's costs. Otherwise, the fire department is getting double payment.
- *"The City shall provide the Township with the names and addresses of those parties served in the Township with fire, medical or rescue services along with the incident report from the event. The Township may bill such parties separately and keep the proceeds from such billings."*

Sale of Old Equipment & Fire Hall

- If the township helped pay for equipment, but doesn't own the equipment, the proceeds of the sale should be dedicated to the fire department needs and reduce the township's costs under the contract.
- *"The City owns all fire/rescue equipment used by the fire department and shall have the sole discretion to determine when and how to dispose of such equipment, provided, however, that the proceeds from the sale of such equipment shall be credited to the fire department fund and shall be used to reduce each jurisdiction's cost share in proportion to the percentage of the annual fire department cost paid by such jurisdiction."*
- *"The City owns the fire hall and shall have the sole discretion to determine when and how to dispose of it, provided, however, that the proceeds from the sale of the fire hall shall be credited to the fire department fund and shall be used to reduce each jurisdiction's cost share in proportion to the percentage of the fire department paid by such jurisdiction."*