

From: Jim Shepherd [<mailto:jim@jshepherdlaw.com>]  
Sent: Tuesday, February 11, 2014 2:26 PM  
To: Bill Bilyeu  
Subject: FW: Parker - Collin County fire services agreement

Bill-here is the original Parker version of the contract, and a letter to Jason explaining why the changes were made. A later version of the contract exists, but this one has all the details.

The wording of the law in the Local Government Code is:

Sec. 352.001. FIRE PROTECTION OF COUNTY RESIDENTS. (a) The commissioners court of a county may furnish fire protection or fire-fighting equipment to the residents of the county or of an adjoining county who live outside municipalities.

(b) The commissioners court may:

(1) purchase fire trucks or other fire-fighting equipment;

(2) issue time warrants and levy and collect taxes to pay the principal of and interest on the time warrants as provided by law; and

(3) contract with the governing body of a municipality located within the county or within an adjoining county to use fire trucks or other fire-fighting equipment that belongs to the municipality.

(c) The commissioners court of a county may contract with an incorporated volunteer fire department that is located within the county to provide fire protection to an area of the county that is located outside the municipalities in the county. The court may pay for that protection from the general fund of the county.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 352.004. AGENCY; LIABILITY. (a) In this section, "furnishing fire protection" includes traveling to or from a fire.

(b) The act of a person who, in carrying out a county's authority to provide fire protection, furnishes fire protection to a county resident who lives outside the municipalities in the county, including the act of a person who is a regular employee or fire fighter of a municipality, is considered to be the act of an agent of the county.

(c) A municipality is not liable for the act of its employee in fighting fires outside the municipality under a contract between the commissioners court of the county and the governing body of the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

As you can see from 352.004 (c) above, the cities are statutorily protected from liability should they be sending paid fire fighters for county fire protection. Section (b) covers both volunteers and employees as not being liable. Under section (b), volunteer fire agencies needlessly would agree to provide insurance for the county as an "also insured". It follows that the normal coverage for the county from its own liability policy would insure volunteers, and city employees, on county runs.

It also would be logical that the contract required by 352.001(b)(3) to use city equipment on a county run (as is the case when the volunteer FD uses fire trucks and equipment owned by the City) would also bring the equipment of the city being used at the request of the county under the coverage of the county policy.

The other point is simply the city would not be risking its equipment on a county run but for the contract with the county to provide county protection. Whether the claim is against the volunteers (or employees) for some alleged negligence, or whether the city equipment is damaged on a county run as the result of a citizen's negligence, the statutes above make it clear the county, not the city, is in a position to defend the claim.

Regards,  
Jim

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