



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

PRICE DANIEL  
ATTORNEY GENERAL

July 23, 1951

Hon. William Schneider, Jr.  
County Attorney  
Gillespie County  
Fredericksburg, Texas

Opinion No. V-1214

Re: Legality of payments  
by Gillespie County  
to the Fredericksburg  
Volunteer Fire Depart-  
ment rather than to  
the City of Fredericks-  
burg for rural area  
fire protection.

Dear Sir:

We refer to your request which reads in part  
as follows:

"The fire department in the City of Fredericksburg, Texas, is City-sponsored and partly City-paid, although the majority of firemen are volunteers. For a number of years, Gillespie County has made payments to The Fredericksburg Volunteer Fire Department in consideration of its fighting fires in the rural areas of the County. All equipment is City-owned and if any loss or damage to the clothing or personal gear of the firemen occurs, the City reimburses them. The department is not incorporated. The money received from the County in the past has been used for the purpose of purchasing chassis<sup>1</sup> for fire trucks and other fire-fighting equipment.

". . . In construing Article 2351a-1, is the money from Gillespie County properly payable to the City of Fredericksburg or to the Fredericksburg Volunteer Fire Department?"

Article 2351a-1, V.C.S., provides in part:

". . . The Commissioners Court in any county of this State shall also have the authority to enter into contracts with any city,

town, or village within the county and/or adjoining counties, upon such terms and conditions as shall be agreed upon between the Commissioners Court and the governing body of such city, town, or village, for the use of the fire trucks and other fire fighting equipment of the city, town, or village. . . ."

In Attorney General's Opinion 0-6160 (1944), it was held:

"Generally speaking, the authority of the commissioners' court as the governing body of the county to make contracts in its behalf is strictly limited to that conferred either expressly or by fair or necessary implication by the constitution and statutes of this State. (Tarrant County vs. Rogers, 125 S.W. 592; Baldwin vs. Travis County, 88 S.W. 480). The authority to contract on behalf of the county is vested alone in the commissioners' court in the absence of a statute authorizing some other agency to contract; and if an agreement is not made through or sanctioned by such agency, it binds neither the county nor the individual. (Sparks vs. Kaufman County, 194 S.W. 605; American Disinfecting Company vs. Freestone County, 193 S.W. 440; Texas Jurisprudence, Vol. 11, page 630.) The commissioners' court must have authority of law for its contracts, and, if the authority has been given, a reasonable construction of it will be given to affect its purpose. (Commissioners' Court vs. Wallace, 15 S.W.2d 525).

"Article 2351a-1, supra, specifically authorizes the commissioners' court of any county of this State to enter into contracts with any city, town, or village within the county and/or adjoining counties upon such terms and conditions as shall be agreed upon between the commissioners' court and the governing body of the city, town, or village for the use of fire trucks and other fire fighting equipment of the city, town or village. Therefore, you are respectfully advised that it is the opinion of this department that the Commissioners' Court of Lamar County is authorized under the law to enter into a contract with the City of Paris

to provide for firefighting facilities to protect property located outside of the city limits of Paris." See also Att'y Gen. Op. V-101 (1947).

However, the Legislature has not authorized counties to enter into such contracts with unincorporated volunteer fire departments. Therefore, we agree with you that the money for rural fire protection is properly payable by Gillespie County to the City of Fredericksburg rather than to the Fredericksburg Volunteer Fire Department.

SUMMARY

The money to be paid for rural fire protection contracted for under the provisions of Article 2351a-1, V.C.S. is properly payable by Gillespie County to the City of Fredericksburg. Art. 2351a-1, V. C.S.

APPROVED:

J. C. Davis, Jr.  
County Affairs Division

Everett Hutchinson  
Executive Assistant

Charles D. Mathews  
First Assistant

BA:mw

Yours very truly,

PRICE DANIEL  
Attorney General

By   
Bruce Allen  
Assistant