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**Sent:** Monday, March 23, 2020 12:19 PM  
**To:** Mark Ray <[Mark.Ray@crystalmn.gov](mailto:Mark.Ray@crystalmn.gov)>  
**Subject:** RE: Public Works Joint Powers Mutual Aid Agreement

Mark,

Cities have broad powers to enter into intergovernmental agreements with other “governmental units” under Minn. Stat. Section 471.59. The term “governmental unit” is broadly defined to include cities, counties, towns, school districts, independent nonprofit firefighting corporations, other political subdivisions in Minnesota or another state, other states, federally recognized Indian tribes, the University of Minnesota, any agency of the state of Minnesota or the United States, and any instrumentality of a governmental unit.

Minnesota Statutes, Chapter 12 is known as the “Minnesota Emergency Management Act.” Chapter 12 authorizes “political subdivisions” to develop “mutual aid arrangements for reciprocal emergency management aid and assistance in an emergency or disaster too great to be dealt with unassisted.” A “political subdivision” is defined as “a county, city, town, or a metropolitan airports commission.” Minnesota Statutes, Section 12.331 provides that when “the public interest requires it because of an emergency, a political subdivision may request the assistance of another political subdivision.” An “emergency” is defined as “an unforeseen combination of circumstances that calls for immediate action to prevent a disaster from developing or occurring.” A “disaster” is defined as “a situation that creates an actual or imminent serious threat to the health and safety of persons, or a situation that has resulted or is likely to result in catastrophic loss to property or the environment, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.”

Section 12.331 further provides that “[u]nless there is a written agreement between the political subdivisions establishing the rules for conducting [emergency management] activities,” the provisions of Section 12.331 apply regarding worker’s compensation, liability, damage to equipment and reimbursement. Section 12.331 was passed by the Minnesota Legislature in 1998 following the devastating St. Peter tornados and the flooding in East Grand Forks. It was intended to allow for emergency assistance in large scale emergencies for which it would be difficult to make plans in advance.

Even though cities can rely on Section 12.331 in the absence of a written agreement, it is generally better to have a written agreement in place prior to needing assistance. Some of the reasons a written agreement is preferred include the following:

- A written agreement is likely to be more detailed than relying on Section 12.331 relating to unwritten agreements. It can establish specific procedures and protocols for requesting and providing assistance and may provide for more rapid assistance.
- A written agreement allows a city to pick the other parties in advance
- Changes to Section 12.331 cannot be made. A written agreement allow the parties to negotiate specific provisions. For example, a written agreement might provide that a party will not charge for assistance for a certain period of time. Reimbursement begins at hour one under Section 12.331.
- Chapter 12 only applies to emergencies. Mutual aid agreements under Section 471.59 can apply to any kind of assistance; an emergency is not required.

- Mutual aid under Chapter 12 is limited to a few types of political subdivisions. Section 471.59 authorizes mutual aid agreements by and among many different types of entities.

Specific questions related to agreements and mutual aid can be directed to the League of Minnesota Cities.

If you have any questions, please let me know.

Chris

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