

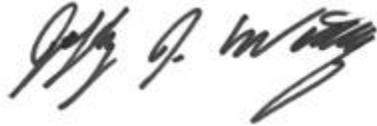
Strategies for the Oak Hill Fire Department During Incremental Annexation

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**Certification Statement**

I hereby certify that this paper constitutes my own product, that where the language of others is set forth, quotation marks so indicate, and that appropriate credit is given where I have used the language, ideas, expressions, or writings of another.

A handwritten signature in black ink, appearing to read "Jeffrey J. Wittig". The signature is written in a cursive style with a large, sweeping initial "J".

Jeffrey J. Wittig

### **Abstract**

Due to periods of incremental annexation by the City of Austin, the Oak Hill Fire Department has experienced difficulties with employee retention and the inability to continue to plan for sufficient emergency service response in its jurisdiction. The purpose of the research was to identify methods that the Oak Hill Fire Department could use to ensure continuity of service delivery for its community during periods of incremental annexation while protecting and improving the ability to retain an experienced and effective workforce. Descriptive research was utilized to determine what limitations, issues, and options existed and what metropolitan departments surrounding smaller departments in potentially similar circumstances to those of the Oak Hill Fire Department would consider. The descriptive method of research was applied to this study with the following questions: a) Are additional funding mechanisms available for the Oak Hill Fire Department to continue operating at its current level? b) Are there providers for a contract for service that could continue delivery of emergency response services to the community? c) Would a potential contract for services be affordable for the Oak Hill Fire Department given diminishing resources during periods of incremental annexation? and d) What are the potential outcomes for the existing workforce of the Oak Hill Fire Department who currently delivers services to the Oak Hill community?

After a review of legislation, literature, and a survey of metropolitan fire departments in the United States, the research concluded that there are few options for additional funding mechanisms but many options for how sufficient emergency services response can be achieved while protecting the Oak Hill Fire Department workforce. The recommendation was to work toward developing a contract for services with another department to alleviate the challenges of an unsettled workforce and uncertain provision of emergency services response for the future.

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## **Introduction**

As the fire department of a small, suburban community that borders the capital city of Austin, Texas, the Oak Hill Fire Department experiences difficulty in retaining employees and ensuring the capability to continue providing appropriate emergency services. During periods of service delivery degradation, the community served by the Oak Hill Fire Department will see a reduction in the capabilities of emergency response through reductions in staffing, potential closing of stations, and the increasing inability to provide a sufficient response of equipment and personnel to mitigate the scenes of emergencies.

The problem is that municipal annexations by the City of Austin are causing the Oak Hill Fire Department to experience a high amount of turnover and a potential lack of continuity of service delivery during periods of incremental municipal annexation. The purpose of the research is to identify options that the Oak Hill Fire Department can consider to ensure continuity of service delivery for the citizens the department will continue to serve during periods of incremental annexation while protecting and improving the ability to retain an experienced and effective workforce. The descriptive method of research was applied to this study to answer the following questions: a) Are additional funding mechanisms available for the Oak Hill Fire Department to continue operating at its current level? b) Are there providers for a contract for service that could continue delivery of emergency response services in the Oak Hill community? c) Would a potential contract for services be affordable for the Oak Hill Fire Department given diminishing financial resources during periods of incremental municipal annexation? and d) What are the potential outcomes for the existing workforce of the Oak Hill Fire Department who currently delivers services to the Oak Hill community?

### **Background and Significance**

The Oak Hill Fire Department was established in 1968 by a group of area volunteers who were surprised to find that fire hydrants were placed close to their residences but no fire department existed to utilize them. Donations were gathered from area residents and business owners and an old military crash truck was purchased to begin the services of the Oak Hill Fire Department. From these humble beginnings, the Oak Hill Fire Department has developed into a combination fire department that has committed to four person per unit minimum paid staffing levels and supports a volunteer force to supplement its needs on large scale incidents.

The background of this problem is related to three ideas and this study is significant to the Oak Hill Fire Department in that as periodic and incremental annexations occur by the City of Austin, the Oak Hill Fire Department continues to experience challenges in retaining employees. The employees of the Oak Hill Fire Department struggle with deciding to continue working with a department where their long term future is insecure and hoping that they can stay long enough to complete a career or receive the benefits extended to employees to better their ability to be hired into other organizations. Secondly, the turnover rate at the Oak Hill Fire Department, averaging five per year over the past four years, is high for a relatively small workforce of 30 career firefighters. The turnover rate poses a significant issue for the Oak Hill Fire Department in that it is constantly training new firefighters and the opportunity to develop institutional knowledge or enhance special job performance skills are diminished. The threat of annexation of the more affluent areas of the Oak Hill Fire Department also continues to cause employees to seek out and find positions elsewhere, despite retention incentives of a reserve funds policy that provides for a cash payout to career staff if positions are reduced due to annexation. Finally, the inability to forecast future funding calls into question the ability of the

Oak Hill Fire Department to be able to maintain an acceptable level of service delivery in a community that will likely not be able to provide sufficient long term funding to continue emergency services response without reducing critical staffing levels.

This study relates to the United States Fire Administration strategic goal numbers two and three. Strategic goal two seeks to improve local planning and preparedness. By studying this problem, the Oak Hill Fire Department will be more prepared to plan for personnel and future funding issues created by periods of incremental annexation. Strategic goal three seeks to improve the fire and emergency services' capability for response to and recovery from all hazards. By studying this problem, the Oak Hill Fire Department will be able to position itself to more adequately respond to the threats of incremental annexation and better protect the community by ensuring its ability to provide appropriate response and recovery from all hazards.

In studying this problem, the Oak Hill Fire Department will exercise leadership as it relates to the National Fire Academy Executive Development course in determining if a potential solution to the problem exists. As a solution is presented and potentially applied to the problem, the Oak Hill Fire Department will be in a position to manage and lead the necessary change that will be applicable to many neighboring departments in the area. The department will also be in a position to assist other departments across the state of Texas and in the United States that have difficulty retaining employees or securing long term funding sources to ensure continued emergency service delivery in areas subject to annexation or in areas where economic stability due to other reasons is a concern.

### **Literature Review**

The question of annexation and how employees are treated during those times has been posed anecdotally for many years. The personnel actions resulting from annexation vary widely

across the United States due to unique state annexation laws or limitations. From a practical perspective, the employment status of emergency service workers in Texas is not covered in annexation legislation. Other emergency services workers, such as county sheriff's deputies, are not specifically in danger of losing their jobs due to annexation as municipal annexation in Texas does not remove tax revenue from a county. Tax revenues are only removed from a special district created to fund other portions of emergency services in unincorporated areas of the state. Thus, firefighters are the only public safety workers at risk of losing their jobs during periods of incremental annexation in Texas. Legislation by the state of Texas includes protection for other special districts such as water and sewer districts to be completely absorbed during periods of annexation, leaving emergency services districts unprotected for funding or transfer of responsibility to the annexing municipality (State of Texas, 2007).

Research shows that, in the state of Texas, activities concerning annexation are mostly related to land development and growth management, as evidenced by the ability of a municipality to control development in extraterritorial jurisdiction and by the lack of land management capabilities being granted to counties (Brian S. Bochner, 2002). This research provides a basis of acknowledging the use of annexation as a method of controlling growth and sprawl in urban areas. Through annexation in the state of Texas, municipalities not only govern the growth and development of their cities, they also manage the framework of how emergency response providers are utilized and ultimately influence how effective they will be in their long term service delivery.

Other municipalities and fire departments across the United States face the same predicament. A reduction in emergency services funding yields discussion and concern among many communities throughout the nation. Bothell, Washington is one community currently

facing these challenges. Rikki King commented “In public, the controversy about Fire Station 22 is about service and safety. Behind the scenes, it also is about firefighters’ jobs” (King, 2012). King summed up the general feelings regarding annexation by noting it is often debated based on the potential change in taxation amounts of property owners and thoughts of diminishing safety, but the unspoken concern revolves around the potential loss of jobs of those that have sworn to protect others as public servants in the fire service. Florida has experienced a similar situation, as it was stated in research that the “survey confirmed that the loss of response area as a result of annexation has a major impact on many fire departments responding to unincorporated areas of Florida” (Burke, 2003). A recent International Association of Fire Chiefs article also opined that “leaders can identify opportunities for improvement as well as potential opportunities for collaboration in a regional fashion” by “not only considering current demand and workload analysis, but also projecting out to future land use, development, and demand projections” (LeDuc, 2012).

Other entities have struggled with the concept of either surviving in a jurisdiction that has lost revenue or personnel due to annexations or being able to provide services to an area that has been annexed without sufficient study of service delivery challenges in the newly annexed area. The literature reviewed has influenced this research to include the contemplation that a blended approach to common issues related to annexation could result in a beneficial outcome for both the Austin Fire Department and the Oak Hill Fire Department. Remarkably, the review of existing literature related to the problem of what options exist for delivering emergency response services in an area that has been newly annexed or contracted is the absence of many Executive Fire Officer research projects attempting to study this problem or develop potential solutions for departments losing territory due to such annexation actions. One article from Fire Engineering

provided great insight into the potential of absorption of personnel from an area being annexed into the department to be charged with emergency services response after annexation. In his article, James Morgan suggests that “a question which seems to be uppermost in the minds of firemen is whether or not cities can legally give them status on their department in view of their prior service with the town or village fire department” (Morgan, 1966). Prior to that, Kenneth Carl also touched on the issue of utilizing existing personnel by stating “Some cities have employed former members of volunteer companies which provided protection in the area prior to annexation. If such men can qualify, their knowledge of local conditions and hazards should be helpful” (Carl, 1961). A common alternative is to contract for services with the department that previously serviced a particular area or community. An Executive Fire Officer study of departments in Florida stated “the use of contracts to provide service in enclaves or areas with extended response times is a common practice” (Burke, 2003). Therefore, contracting for services is a viable alternative when planning for service delivery in a new area.

### **Procedures**

To answer research question one related to funding mechanisms available to the Oak Hill Fire Department, the following steps were taken. Research was conducted on state of Texas laws concerning annexation and authority granted to Emergency Services Districts in the state of Texas under Health and Safety code 775. As cited in Section 775.022, Removal of Territory by Municipality, subsections C through F (State of Texas, 2011), “A municipality shall compensate a district immediately after annexation in an amount equal to the annexed territory’s pro rata share of the district’s bonded and other indebtedness, but this compensation must be applied exclusively to the payment of the annexed territory’s pro rata share of bonded or other indebtedness.” A review of these applicable laws indicate that while a onetime compensation

mechanism for purchasing unneeded equipment or stations is present, there exists no long term solution for securing additional funding for the continued provision of emergency services in the remaining district's territory.

To answer research question two related to contracting with other emergency services providers in the remaining territory during periods of incremental annexation, the Texas Health and Safety Code was reviewed. Section 775.024 of the code provides a district with the ability to merge with another district or districts. This has the effect of arranging for another service provider to become the official service provider in any particular district. Additionally, Sections 775.031(a)(9) and (10) provide statutory authorization for districts to contract with other entities, including other districts or municipalities, to make emergency facilities and services available to the district. The legislation also includes provisions for reciprocal operation of services and facilities if found to be mutually beneficial (State of Texas, 2011).

To answer research question three related to a potential contract being affordable with projected decreasing funding during periods of incremental annexation, an interview was conducted with a current Travis County Emergency Services District number 3 Commissioner. According to Commissioner R. Taylor (personal communication, November 10, 2011), the future potential funding of any district subject to periods of incremental annexation will suffer from the unknown of the current taxation values and retail sales and resulting sales tax collection performance. The affordability of a potential contract for services in the short term leaves a district with the inability to predict a solid or consistent revenue stream on which to base a simple dollar based contract for services. There must be a different mechanism utilized that provides for a percentage based funding solution for future period contracts for services.

To answer research question four related to the potential outcome for current employees of the Oak Hill Fire Department during periods of incremental annexation, a sample of subjects were studied. This sample was comprised of metropolitan fire department administrators as classified by the International Association of Fire Chiefs since contacting the full population of fire departments across the state of Texas or the United States would be difficult to sample with a large and vague number of participants. The Metropolitan Chiefs Association of the International Association of Fire Chiefs Association and the National Fire Protection Association defines its membership as those departments having a minimum staffed strength of 400 fully paid career firefighters (Metropolitan Chiefs Association, 2007). The metropolitan fire department group was selected based on their propensity to experience annexation growth into areas that are more likely to have been developed and serviced by smaller fire departments. A survey instrument was developed to seek questions about potential options for the provision of services to a new territory for a metropolitan fire department. A limitation of this survey instrument is the inability to require responses, such that the responses do not represent a significant data set. There are other departments across the state of Texas and the United States that could also contribute to this data collection effort, but finding an appropriate sample could prove challenging given that there is no method of listing or sorting fire department registration records to include those with bordering fire departments providing services to a suburban or urban area.

### **Results**

In the review of annexation laws in the state of Texas, the only funding mechanisms address paying off pro rata portions of long term debt and potential compensation at fair market value, if requested, for equipment or stations no longer needed by the jurisdiction no longer providing services to an area. Also found in state of Texas law are provisions for an Emergency

Services District to contract with others for the provision of emergency services. Based on an interview with a Commissioner of an Emergency Services District in the state of Texas (R. Taylor, personal communication, November 10, 2011), the affordability of a potential contract can be evaluated based on projections of revenues and expenses for a specific jurisdiction. The survey instrument utilized for research question four and background for research questions two and three consisted of nine questions, described below with survey response percentages.

Question one asked if the respondent's department represented a metropolitan fire department. Answers were solicited in a Yes or No fashion. Ninety-six percent of respondents indicated they did indeed represent a metropolitan fire department. Four percent indicated they did not.

Question two sought to have the respondent indicate if their department was subject to annexation by a municipality or other jurisdiction in a Yes or No fashioned response. Ninety-two percent of respondents indicated their department was not subject to annexation in this fashion. Eight percent indicated they were subject to annexation.

Question three inquired if the responding department had a plan for decreased funding based on potential annexation of the jurisdiction. Available answers were: Yes, No, or Not Applicable. Thirty-two percent of respondents selected "No" for their response, while the remaining 68% indicated this question did not apply to their situation.

Question four requested a response to determine if the respondent would consider contracting for services with the existing service provider in a newly annexed or contracted area with a Yes or No response. Twenty-eight percent of respondents indicated that they would

consider contracting for services with the existing service provider in these areas while 72% indicated they would not consider contracting for services.

Question five asked if the respondent's department would consider negotiating personnel transfers to the department responsible for a newly annexed area or contracted area as opposed to potential layoffs of existing personnel in a Yes or No fashion. Fifty-two percent of responding departments indicated they would consider personnel transfers as opposed to potential layoffs of existing personnel. Forty-eight percent would not be willing to consider personnel transfers.

Question six requested a response of Yes, No, or Not Applicable if the respondent's department would be willing to accept personnel from a department that previously provided services in the area being annexed or contracted. Sixty percent of responding departments indicated they would be willing to accept personnel from a department that previously provided services in the area being annexed or contracted while 40% indicated they would not be willing to accept personnel from another department.

Question seven inquired if the respondent's department anticipated any legal issues or difficulties negotiating a personnel transfer such as one that was previously asked. Answers were requested to be Yes, No, or Not Applicable. Forty-four percent of respondents indicated that they would anticipate legal issues or difficulties negotiating a personnel transfer. Twenty-eight percent of respondents indicated that no issues were anticipated while the remaining 28% indicated this question was not applicable based on their previous responses.

Question eight requested a written response if the respondent believed there would be issues or difficulties negotiating personnel transfers. Responses to this question included:

- Providing hiring preference to personnel who may not meet the department's minimum qualifications would be unfair to those competing for those positions. Also, pension plans

among the different departments may result in buyout costs or differing benefit management.

- CBA related to issues such as past practice and existing MOU
- Civil service statutes, municipality regulations and union contracts governing employees will be an obstacle.
- I would imagine there would be some difficulties but I am limited on information since I have not experienced this type of situation before.
- Training difficulties.
- Compensation, benefits and labor contracts
- Impacts on Labor Issues
- Various Collective Bargaining Agreements, work schedules, pay grades and personnel classification differences
- Union contract issues based on lateral transfers and no training academy, absorbed in the past as entry level firefighters
- 1) Regarding annexation and the provision of services - If our city (Austin) annexed land, then legally the city must provide services. We cannot contract out with another department to provide services. 2) Regarding hiring personnel if Austin is contracted to provide service - We would consider, and in many cases prefer, hiring personnel that previously provided the service. However, this would require a change in our labor contract. Therefore, just because we would entertain the idea or prefer to hire folks from the department that previously provided the service, we still have to come to an agreement with labor to make that happen. 3) Regarding legal issues in transferring

personnel - I addressed that in #1 regarding annexation. For a contract for service, the only legal issue is renegotiating the labor agreement.

- Labor agreements, training

Question 9 requested a written response asking if the respondent would share the respondent's department name for statistical tracking purposes. The responses included:

- El Paso Fire Department, El Paso, Texas
- Kansas City, MO
- Colorado Springs Fire Department, Colorado Springs, CO
- Miami Fire Rescue
- Saint Paul Fire Department
- Fort Worth Fire Department
- Garland Fire Department, Garland, Texas
- Cobb County Fire & Emergency Services
- Ventura County Fire Protection District, Ventura County, CA  
<http://fire.countyofventura.org>
- Orange County Fire Authority (California)
- Lexington KY Division of Fire & Emergency Services
- San Jose Fire Department
- Montgomery County, MD
- Clark County Fire Department, NV
- Columbus, Ohio Division of Fire
- Birmingham Fire & Rescue Service - Birmingham, AL
- Austin, TX

### **Discussion**

The results of research question one, related to available funding mechanisms for the Oak Hill Fire Department, concluded that there are limited funding mechanisms and opportunities available. The Oak Hill Fire Department has implemented ad valorem taxes at the maximum prescribed by law and has also implemented the maximum sales tax levy available in the state of Texas (State of Texas, 2007). Outside of new or amended legislation at the state level, the funding mechanisms available are already being utilized to the fullest extent allowed. Creating legislation that enables additional funding mechanisms could relieve some of the pressures of continuing to provide emergency services in a community after the loss of some of its area due to incremental annexations. This new potential funding mechanism would most likely appear to be new or expanded taxation authority, which is not likely to be popular among legislators or the general public.

The results of research question two, regarding the ability of the Oak Hill Fire Department to contract with other service providers, demonstrates that this possibility does exist in state law (State of Texas, 2011). There are numerous possibilities for the Oak Hill Fire Department to consider regarding contracting with other providers of emergency services. Service could be provided relatively easily by a number of surrounding departments and possibly private corporations that specialize in the safety and security industry. In determining if a contract for services is available, the Oak Hill Fire Department would need to contact other area departments to discuss receptiveness to the idea of contracting for services. These efforts have been undertaken in the past with a joint management agreement between the Oak Hill Fire Department and the neighboring Westlake Fire Department (R. Taylor, personal communication, November 10, 2011). Other neighboring departments were also contacted and financial

discovery work was performed for the potential consolidation of four area departments, but this yielded no viable results given the current financial revenue limitations (State of Texas, 2007).

The results of research question three demonstrate that the affordability of a potential contract for services (given the projected decrease in revenues due to incremental annexations by the City of Austin) will be a situation that must be observed closely. Based on the inability of the Oak Hill Fire Department to raise any additional revenue under current state legislation (State of Texas, 2011), a potential contract for services outside of some other arrangement or cost control measure will be unlikely sustainable in the long term. Future revenue availability to solidify the delivery of services in the Oak Hill community does not exist to the extent required. Focusing on a future picture of service delivery through consolidation or contract remains the only way to ensure an appropriate level of service delivery is available (R. Taylor, personal communication, November 10, 2011).

The results for research question four, related to potential outcomes for the Oak Hill Fire Department workforce during periods of incremental annexation actions by the City of Austin, demonstrate that the outcomes for the Oak Hill Fire Department workforce appear mostly positive. Through the survey instrument, it was noted that 28% of respondents believe their department would consider contracting with the existing service provider in a newly annexed or contracted area. This relates to the article indicating that absorption of personnel would be a beneficial aspect in the provision of emergency services to a newly annexed area (Carl, 1961). Additional comments regarding the use of contract labor in a newly expanded service area indicate there are labor relation issues that revolve around the ability of a department to utilize a different workforce for the provision of services. A potential contract for services with the City of Austin cannot currently be accomplished by simply having the Oak Hill Fire Department

workforce continue providing emergency response services to the area. A simple contract of this fashion would not provide the assurance of continued employment beyond the employee's direct control and would fail to resolve the problem for the Oak Hill Fire Department workforce.

Similarly, 52% of respondents indicated that they would consider negotiating personnel transfers to a new service provider for a newly expanded service area as opposed to potential layoffs of existing personnel. This is another positive aspect in that metropolitan departments would rather see their workforce be able to transfer to another organization than for them to be laid off or lose their jobs permanently. This confirms that the Oak Hill Fire Department's desire to arrange for such a personnel transfer option is not only viable, but also is supported by the responses of 52% of survey respondents. Demonstrating the most positive response in the survey instrument is the fact that 60% of respondents indicated their department would be willing to accept personnel from a department that previously provided services in an area being annexed or contracted for services while another 32% indicated the question was not applicable to their situation. With the remaining eight percent of respondents indicating that their department would not be willing to accept personnel transfers, the Oak Hill Fire Department and its workforce should be encouraged that only a relatively small percentage of metropolitan departments in the United States indicate that they would be unwilling to accept personnel transfers of a workforce such as the Oak Hill Fire Department's.

### **Recommendations**

The purpose of the research was to identify methods that the Oak Hill Fire Department could use to ensure continuity of service delivery for the citizens it will continue to serve during periods of incremental annexation while protecting and improving the ability to retain an experienced and effective workforce. The results provided data that paint a positive picture of the

potential future for the Oak Hill Fire Department workforce that helps ensure a continuity of service at an acceptable level for the community. The information that has been gathered can now be used to help drive potential change and development of plans that help solidify the availability of emergency services delivery in the Oak Hill community. The next step for the Oak Hill Fire Department is to begin meeting and discussing the desired end state that provides for the Oak Hill Fire Department workforce being absorbed by the City of Austin and the City of Austin Fire Department becoming the contracted service provider to the Oak Hill community. Through these discussions and planning meetings, legal issues and challenges will need to be vetted, thoroughly researched, and presented to decision makers from both the Oak Hill Fire Department and the City of Austin to continue moving the process forward. The Oak Hill Fire Department also needs to clearly understand that these changes must be reviewed by many levels of government and labor associations. All interested parties also need to provide an appropriate level of attention on a pace fast enough to offset incremental annexation actions but slow enough to ensure a seamless delivery of emergency response services to the community. A rapid or accelerated approach to the issues may result in loss of protection of jobs or a degradation of service delivery; neither of which is acceptable to the Oak Hill Fire Department organization.

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