

**RESOLUTION NO. 2012 - 045**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, TERMINATING THE AGREEMENT BETWEEN THE CITY OF PEMBROKE PINES AND THE TOWN OF SOUTHWEST RANCHES FOR THE DELIVERY OF EMERGENCY MEDICAL FIRE PROTECTION AND FIRE PREVENTION SERVICES ON SEPTEMBER 30<sup>TH</sup>, 2012 AT 11:59 P.M., IN ACCORDANCE WITH SECTION 18.1 OF THE AGREEMENT; FINDING THE CITY OF PEMBROKE PINES TO BE IN BREACH OF SECTION 22.20 OF THE AGREEMENT THROUGH ITS FAILURE TO EXPEDITIOUSLY APPROVE A WATER/WASTE WATER UTILITY AGREEMENT WITH CORRECTIONS CORPORATION OF AMERICA; ATTEMPTING TO MITIGATE SOME OF THE IMPACTS OF THE CITY OF PEMBROKE PINES TERMINATION AND BREACH BY SEEKING AN ALTERNATIVE SERVICE PROVIDER WHO, FOR BUDGETARY PURPOSES, WILL NEED TO COMMENCE SERVICES ON OCTOBER 1, 2012, THE START OF THE 2013 FISCAL YEAR; FORWARDING A CERTIFIED COPY OF THIS RESOLUTION AND A LETTER OF TERMINATION TO THE CITY OF PEMBROKE PINES IN ACCORDANCE WITH SECTION 22.9 OF THE AGREEMENT; AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO TAKE ALL STEPS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, on June 27<sup>th</sup> 2011 the Town of Southwest Ranches ("Town") entered into an Agreement with the City of Pembroke Pines ("City") providing for the delivery of emergency medical, fire protection, and fire prevention services (the "Agreement"); and

**WHEREAS**, Section 22.20 of the Agreement requires the City to expeditiously approve a water/waste water utility agreement with Corrections Corporation of America; and

**WHEREAS**, although Corrections Corporation of America submitted its completed application to the City on December 29, 2011, the City has failed to expeditiously approve such application; and

**WHEREAS**, instead, the City has purposely and intentionally worked to find ways to not approve such application, including the hiring of independent legal counsel to devise a way in which the application could be rejected; and

**WHEREAS**, on March 7, 2012, instead of considering the application, the City of Pembroke Pines terminated the Agreement and voted to file a legal action in an attempt to not furnish water and sewer service to Corrections Corporation of America; and

**WHEREAS**, although the City has terminated its Agreement with the Town, the termination is not effective until nine months from the termination date; and

**WHEREAS**, as such, under the Agreement, the City is still required to expeditiously approve a water/waste water utility agreement with Corrections Corporation of America; and

**WHEREAS**, despite this fact, and the fact that the Town continues to abide by the terms of the Agreement, the City continues to perpetuate its breach; and

**WHEREAS**, as a result of the City's termination, the Town is now forced to find an alternative fire and emergency medical services provider; and

**WHEREAS**, after numerous discussions with various fire and emergency medical services providers, for budgeting purposes it appears that it is necessary to start a new contract at the start of the fiscal year; and

**WHEREAS**, due to a nine month termination provision, the City's termination is not effective until December 14, 2012; and

**WHEREAS**, although the City recognized that this termination date may have to be altered orally to reflect the end of the fiscal year calendar, as of this date the Town has not received written confirmation of the City's willingness to do so; and

**WHEREAS**, to avoid any further confusion on the termination date, and to help to mitigate some of the impacts of the City's termination, the Town desires to enact Section 18.1 of the Agreement and to terminate the Agreement effective September 30, 2012 at 11:59 P.M.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Southwest Ranches, Florida:

**Section 1.** The above referenced "WHEREAS" clauses are true and correct and are incorporated herein by reference.

**Section 2.** In accordance with Section 18.1 of the Agreement between the City of Pembroke Pines and The Town of Southwest Ranches for Delivery of Emergency Medical Fire Protection and Fire Prevention Services, the Town hereby terminates the Agreement effective September 30, 2012 at 11:59 P.M.

**Section 3.** The Town hereby finds the City to be in breach of Section 22.20 of the Agreement through its failure to expeditiously approve a water/waste water utility Agreement with Corrections Corporation of America.

**Section 4.** The Town, in an attempt to mitigate some of its impacts as a result of the City's termination and breach, needs to seek an alternative service provider who, for budgetary purposes, will need to commence services on October 1, 2012, the start of the 2013 fiscal year; and

**Section 5.** The Town Clerk is hereby directed to forward a certified copy of this Resolution and a letter of termination to the City of Pembroke Pines in accordance with Section 22.9 of the Agreement.

**Section 6.** The appropriate Town officials are hereby authorized and directed to take all steps necessary to effectuate this Resolution.

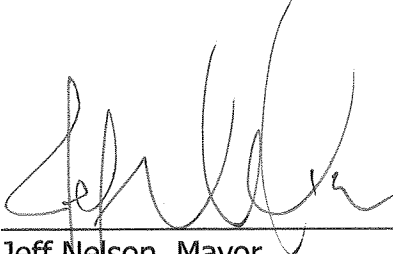
**Section 7.** All Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

**Section 8. Severability.** If any word, phrase, clause, sentence or section of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

**Section 8. Effective Date.** This Resolution shall be effective immediately upon its adoption.

**PASSED AND ADOPTED** by the Town Council of the Town of Southwest Ranches, Florida, this 3<sup>rd</sup> day of May 2012, on a motion by Vice Mayor McKay and seconded by Council Member Jablonski.

Nelson	<u>YES</u>	Ayes	<u>5</u>
McKay	<u>YES</u>	Nays	<u>0</u>
Breitkreuz	<u>YES</u>	Absent	<u>0</u>
Fisikelli	<u>YES</u>	Abstaining	<u>0</u>
Jablonski	<u>YES</u>		

  
\_\_\_\_\_  
Jeff Nelson, Mayor

ATTEST:

  
\_\_\_\_\_  
Erika Gonzalez-Santamaria, CMC, Town Clerk

Approved as to Form and Correctness:

  
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Keith Poliakoff, Town Attorney  
ACTIVE: 3801732\_1