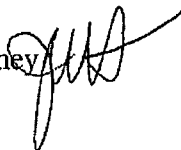


MEMORANDUM
CITY OF ST. PETERSBURG

TO: The Honorable Chair and City Council Members
FROM: Jeanne Hoffmann, Assistant City Attorney 
DATE: June 5, 2009
RE: City v. Pinellas County Emergency Medical Services Authority

On May 27, 2009, an amended complaint was filed and served on the Pinellas County Emergency Medical Services Authority ("Authority") and included a count for injunctive relief, action on the judgment and writ of mandamus. Chapter 164 requires that if a governmental entity files suit against another governmental entity, court proceedings on the suit shall be abated by order of the court, until the negotiation process contained in 164 has been exhausted. However, Chapter 164 also provides for a governmental entity, by three-fourths vote, to determine that there is an immediate danger to the health, safety and welfare of the public which requires immediate action or that significant legal rights will be compromised if a court proceeding does not take place before the dispute resolution process can occur.

The resolution contains a finding that significant legal rights would be compromised because the Authority has indicated it will pay the City substantially less than the reasonable and customary costs associated with emergency medical services. Additionally, there is an immediate danger to the health, safety and welfare of the public because of the need to provide the necessary level of emergency medical services to the public.

This resolution will be on the June 11, 2009 agenda for consideration. The City Attorney's Office recommends approval of the attached resolution.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF ST. PETERSBURG FINDING THAT THERE IS AN IMMEDIATE DANGER TO THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC REQUIRING IMMEDIATE ACTION AND THAT SIGNIFICANT LEGAL RIGHTS WILL BE COMPROMISED IF LITIGATION ENFORCING THE FINAL JUDGMENT FOR FUNDING EMERGENCY MEDICAL SERVICES DOES NOT PROCEED BEFORE THE DISPUTE RESOLUTION PROCESS ESTABLISHED BY CHAPTER 164, FLORIDA STATUTES; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of St. Petersburg has filed an amended complaint for action on the Final Judgment, a request for injunction relief and a writ of mandamus for enforcement of the Final Judgment which was rendered in the matter entitled The Pinellas County Emergency Medical Services Authority v. The City of St. Petersburg, Florida, Pinellas County Circuit Civil No. 88-6779-15; and

WHEREAS, the Final Judgment held that the City was an existing emergency medical services ("EMS") provider and that the Pinellas County Emergency Medical Services Authority ("Authority") had a mandatory duty to fund the reasonable and customary costs of the City's EMS department; and

WHEREAS, the City and Authority entered into a contract to provide for funding the reasonable and customary costs to the City to provide EMS service in the City; and

WHEREAS, the City is not obligated to enter into a contractual relationship with the Authority as a condition precedent to funding, however, the Board of County Commissioners, acting as the Authority, has moved to terminate the existing contractual agreement between the Authority and City on September 30, 2009; and

WHEREAS, on March 20, 2009, the Authority passed two resolutions which identify the Authority's opinion of what reasonable and customary costs and the level of service should be, which opinions are contrary to the findings in the Final Judgment; and

WHEREAS, the Authority has indicated that they will pay the City substantially less than the amount of money necessary to provide the reasonable and customary costs of providing EMS service in the City; and

WHEREAS, for approximately the last nine months the City and Pinellas County staff, on behalf of the Authority, have held negotiations and no new agreement as to funding has resulted; and

WHEREAS, these discussions are continuing; and

WHEREAS, on May 19, 2009, the City Council and the Board of County Commissioners, on behalf of the Authority, met to discuss the funding of EMS services and the foregoing lawsuits; and

WHEREAS, the failure to fund the reasonable and customary costs for EMS in compliance with the Final Judgment creates an immediate danger to the health, safety and welfare of the public and requires immediate action because such funding is necessary to provide the necessary level of EMS service for the public; and

WHEREAS, significant legal rights will be compromised if the litigation enforcing the Final Judgment does not proceed because there is no agreement, written or otherwise, in place for fiscal year 2010, which begins October 1, 2009, and the Authority has indicated that they will pay the City substantially less than the reasonable and customary costs of providing EMS services; and

WHEREAS, Section 164.1041(2) allows a governmental entity to determine that the dispute resolution process provided in Chapter 164 does not need to be followed upon a finding that there is an immediate danger to the health, safety and welfare of the public which requires immediate action or significant legal rights will be compromised if a court proceeding does not take place before the dispute resolution process can occur.

NOW THEREFORE, BE IT RESOLVED by the City of St. Petersburg, Florida that there is an immediate danger to the health, safety and welfare of the public which requires immediate action and that significant legal rights of the City will be compromised if the litigation enforcing the Final Judgment does not proceed before the dispute resolution process provided in Chapter 164; and

BE IT FURTHER RESOLVED that the City of St. Petersburg finds that pursuant to Section 164.1041(2) the dispute resolution process does not need to be followed in this matter, prior to pursuing litigation.

This Resolution shall take effect immediately upon adoption.

Approved as to form and content:

City Attorney