

**RESOLUTION NUMBER 24-21**

**A RESOLUTION AMENDING THE PERMISSIVE USE LICENSE AGREEMENT BETWEEN THE TOWN OF FORT MYERS BEACH AND THE FORT MYERS BEACH FIRE CONTROL DISTRICT FOR USE OF DISTRICT PROPERTY AS A TOWN HALL UNTIL MARCH 31, 2024; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section 2 of the State Constitution and Chapter 166 of the Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Article X of the Town Charter empowers the Town Council to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

**WHEREAS**, the Town entered into a Permissive Use License Agreement with the Fort Myers Beach Fire Control District (“District”) for the use of District property as a location for a temporary Town Hall because of the catastrophic damage caused by Hurricane Ian to the building in which Town Hall previously operated out of; and

**WHEREAS**, the Town Council deemed it to be in the best interests of the business owners, residents, and visitors of the Town to enter into the License Agreement with the District.

**WHEREAS**, the Town Council previously approved an extension of the expiration date of the agreement until January 31, 2024; and

**WHEREAS**, the Town wishes to extend the expiration date of the agreement again until March 31, 2024.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:**

Section 1. The foregoing whereas clauses are ratified and confirmed as being true and correct, are the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. The Amendment to Permissive Use License Agreement between the Town and District, a copy of which is attached as Exhibit “A” is approved. The Mayor is authorized to execute the Amendment to Permissive Use License Agreement on behalf of the Town, and the Town Manager is authorized to expend budgeted funds on behalf of the Town to implement the amendment.

Section 3. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Woodson and seconded by Council Member King, and upon being put to a roll call vote, the result was as follows:

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
John R. King, Council Member	Aye
Vacant, Council Member	N/A
Karen Woodson, Council Member	Aye

ADOPTED this 5<sup>th</sup> day of February 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

**FORT MYERS BEACH TOWN COUNCIL**

  
Dan Allers (Feb 8, 2024 11:21 EST)  
\_\_\_\_\_  
Dan Allers, Mayor

**ATTEST:**

  
Amy Baker (Feb 12, 2024 09:18 EST)  
\_\_\_\_\_  
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE  
AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

  
Nancy Stuparich (Feb 8, 2024 11:21 EST)  
\_\_\_\_\_  
Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 7<sup>th</sup> day of January 2024.

## SECOND AMENDMENT TO PERMISSIVE USE LICENSE AGREEMENT

THIS SECOND AMENDMENT TO PERMISSIVE USE LICENSE AGREEMENT is made and entered into this 5<sup>th</sup> day of February 2024, (“Amendment”), and is by and between Fort Myers Beach Fire Control District, an independent special district of Florida, whose mailing address is 100 Voorhis St, Fort Myers Beach, Florida 33931, hereinafter called “LICENSOR”, and Town of Fort Myers Beach, a Florida municipal corporation, whose mailing address is 2525 Estero Blvd., Fort Myers Beach, Florida 33931, hereinafter called “TOWN”, and amends that certain PERMISSIVE USE LICENSE AGREEMENT entered into on the 9<sup>th</sup> day of January, 2023 and amended on the 4<sup>th</sup> day of December 2023. (“Agreement”); and

WHEREAS, LICENSOR is the owner of certain property in the Town of Fort Myers Beach, Lee County, Florida, located at 2545 and 2555 Estero Boulevard, Fort Myers Beach, Florida and being further identified as Strap #19-46-24-W3-00458.0000 and #19-46-24-W3-00458.0010 (collectively the “Parcel”); and

WHEREAS, TOWN is desirous of obtaining the continued permission to use, as provided in the Agreement, a portion of said Parcel of the LICENSOR for the additional month of December, 2023.

NOW, THEREFORE, in consideration of the covenants to be kept and performed by each of the parties hereto, and the sum of One Dollar (\$1.00) cash in hand paid by the TOWN to the LICENSOR, receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

1. USE AND TERM - LICENSOR, subject to the conditions herein expressed, does hereby grant unto the TOWN, the continued privilege and license to use the area indicated in Exhibit “A” of the Agreement (“Site Area”) for the continued placement and use of a temporary Town Hall for an additional two month period ending on March 31, 2024.
2. REMAINING TERMS – Other than the Term of the Agreement, which Term shall be extended for two additional months, all terms and conditions of the Agreement shall remain in force and effect.

IN WITNESS WHEREOF, the LICENSOR and TOWN have executed this Second Amendment to the Agreement as of the date and year first above written.

WITNESSES:

*Christina Encer*  
Signature

Christina Encer  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

LICENSOR:

*Scott Wirth*  
Scott Wirth, Fire Chief

TOWN:

*DL*  
Dan Allers (Feb 8, 2024 11:21 EST)  
\_\_\_\_\_  
Dan Allers, Mayor

ATTEST:

*Amy Baker*  
Amy Baker (Feb 12, 2024 09:18 EST)  
\_\_\_\_\_  
Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:

*Nancy Stuparich*  
Nancy Stuparich (Feb 8, 2024 11:21 EST)  
\_\_\_\_\_  
Vose Law Firm, Town Attorney