

RESOLUTION NO. 24-183

A RESOLUTION TO AUTHORIZE THE TOWN MANAGER OF THE TOWN OF FORT MYERS BEACH, TO REQUEST A LOAN UNDER THE COMMUNITY DISASTER LOAN PROGRAM OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FOR A MAXIMUM AMOUNT OF \$4,081,357, TO DRAW UPON IF NEEDED TO FUND ESSENTIAL GOVERNMENT SERVICES AS A RESULT OF LOST REVENUES, TO RECEIVE AND MANAGE THESE FUNDS, AND FOR OTHER PURPOSES, PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, 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 service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach (“Town”) empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, due to the effects of the Hurricane Ian DR-4673FL, the Town of Fort Myers Beach is projecting substantial losses of revenue necessary for the continued operations of essential government services; and

WHEREAS, the Federal Emergency Management Administration (FEMA), through its Community Disaster Loan Program (CDL Program), makes available low interest loans to help bridge substantial revenue losses until such time as recovery efforts lead to restored revenues sources; and

WHEREAS, the Town of Fort Myers Beach is interested in submitting to FEMA a consideration request for a Community Disaster Loan in the amount of \$4,081,357, that must be repaid no later than 5 years after the execution of the note, and will be used as revenue in support of annual budgets as permitted by Law; and

WHEREAS, the described law permits local governments to accept such loan proceeds and anticipate same in support of their annual budgets; and

WHEREAS, (1) The interest rate of the loan will be equal to the 5-year maturities based on the United States Treasury obligations in effect on the date the Promissory Note is executed by FEMA; (2) The loan may be forgiven under certain circumstances; and (3) Whatever portion of the loan not forgiven will be repaid at a time when economic recovery has broadened the base of revenues in support of the budget; and

WHEREAS, refraining to accept such a loan would irresponsibly forgo relief available to the residents of the Town of Fort Myers Beach at a time when relief may be critically needed.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF FORT MYERS BEACH, FLORIDA AS FOLLOWS:

Section 1. The above recitals are true and correct, and incorporated herein by this reference and adopted as the legislative and administrative findings of the Town Council; all exhibits referenced and attached are incorporated herein and made a specific part of this Resolution.

Section 2. The Town Council of the Town of Fort Myers Beach authorizes the Town Manager or his authorized representative to begin all the necessary steps to present to FEMA the formal Request for a Loan of the CDL Program for an amount not to exceed \$4,081,357;

Section 3. If FEMA approves the loan, the Town Council authorizes the Town Manager to receive and administer these funds, as provided by the Community Disaster Loan Program.

Section 4. That the Town Manager is hereby authorized and designated as representative of the Town of Fort Myers Beach and as such may and will provide any additional information, as required, including all the guarantees contained in the request.

Section 5. With respect to such request and receipt of funds, the Town of Fort Myers Beach in accordance with the requirements of the Community Disaster Loan Program of FEMA shall comply with the following:

- A. A contract with FEMA, in a manner and manner acceptable to the Director of the Agency, for payment of the amount requested and compliance with any other obligation required or acquired, as a condition of receiving the loan proceeds.
- B. Commit re-payment of funds that the Town of Fort Myers Beach may be receiving in the future.
- C. Request an amount of funds not to exceed \$4,081,357.
- D. Authorize the Finance Director to create a sinking fund account that will be used to amortize the CDL service debt.
- E. Establish a payment period that does not exceed a term of five (5) years.
- F. Provide, at the discretion of the Director of FEMA, any other type of guarantee that it deems appropriate.

Section 6. That the Town Manager is hereby authorized to sign any contract and / or agreement with the Director of FEMA in relation to said request and is also authorized to review and obligate such funds requested pursuant to said contract and / or agreement.

Section 7. To the extent that all or any or any of the actions authorized by this means have been carried out and / or executed by the Town Manager, all are ratified and confirmed.

Section 8. Any ordinance, resolution or any of its parts that may be in conflict with this, are hereby repealed.

Section 9. ~~We pledge the following listed collateral security to the Federal Emergency Management Agency (FEMA) on the Promissory Note for a Community Disaster Loan for \$4,081,357 executed on _____ pursuant to Section 417 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, and the FEMA Regulation, 44 CFR 206, Subpart K. We further understand that failure to repay any outstanding principal and related interest on those portions of the loan which do not qualify for loan cancellation as determined by FEMA or any successor agency will result in forfeiture of as much as the listed collateral security as is necessary to collect such outstanding principal and interest (Collateral security listed below).~~

~~The promissory note is payable from and secured by a pledge of the applicant's revenues for each fiscal year while any of the loan is outstanding, after a provision has been made for the payments required in connection with any outstanding indebtedness of the application.~~

Section 9. Copy of this Resolution duly approved by the Town of Fort Myers Beach will be sent to the Director of Finance of Fort Myers Beach, to the Budget Director of Fort Myers Beach, to the Town Attorney, to the authorized officials of FEMA Community Disaster Loans Program and to any other agency involved in the process.

Section 10. This resolution will take effect immediately once signed by the Mayor.

The foregoing Resolution was adopted by the Town Council upon a motion by Vice Mayor Atterholt 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
Scott Safford, Council Member	Aye
Karen Woodson, Council Member	Aye

ADOPTED this 9th day of September 2024 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH

Dan Allers
Dan Allers (Sep 12, 2024 10:48 EDT)

Dan Allers, Mayor

ATTEST:

Amy Baker

Amy Baker, Town Clerk

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

Nancy Stuparich
Nancy Stuparich (Sep 15, 2024 10:03 EDT)

Vose Law Firm, Town Attorneys

This Resolution was filed in the Office of the Town Clerk on this 10th day of September 2024.