

RESOLUTION NUMBER 24-181

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING A FIRST AMENDMENT TO THE ADMINISTRATIVE LAW JUDGE SERVICES BETWEEN THE TOWN AND DEPARTMENT OF ADMINISTRATIVE HEARINGS TO PROVIDE SERVICES FOR APPELLATE REVIEW OF THE TOWN BUILDING OFFICIAL’S DECISIONS AS MAY BE REQUIRED UNDER THE TOWN CODE; AND PROVIDING FOR 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 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, on March 7, 2024, the Town and the Department of Administrative Hearings (“DOAH”) entered into a Contract, for DOAH’s Administrative Law Judges (“ALJs”) to conduct hearings for code enforcement hearings for which DOAH’s ALJs may adjudicate violations, liens, and enforcement, as provided by Chapter 162, Florida Statutes and the Town Code of Ordinances; and

WHEREAS, the Town is in a need of a hearing officer to adjudicate appeals of the decisions by the Town of Fort Myers Beach Building Official, as provided in Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the Town and DOAH wish to amend the Contract to expand the duties of DOAH’s ALJs to include to include review of appeals as provided in Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the Town Council has determined it is in the best interests of the Town to approve the proposed First Amendment.

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

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. The Town Council hereby approves the First Amendment to the Administrative Law Judge Services Contract between the Town and DOAH. A copy of the First Amendment to the Contract is attached to this Resolution as Exhibit “A.”

Section 3. 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 4. This Resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

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

Dan Allers, Mayor	Aye
Jim Atterholt, Vice Mayor	Aye
Karen Woodson, Council Member	Aye
Scott Safford, Council Member	Aye
John R. King, Council Member	<u>Aye</u>

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, Mayor

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, LLP, Town Attorney

This Resolution was filed in the Office of the Town Clerk on this ___ day of _____, 2024.

EXHIBIT "A"

**FIRST AMENDMENT TO ADMINISTRATIVE
LAW JUDGE SERVICES CONTRACT**

THIS FIRST AMENDMENT ("First Amendment") is made and entered into by and between the TOWN OF FORT MYERS BEACH, a municipal corporation of the State of Florida, ("Town") and THE STATE OF FLORIDA, DEPARTMENT OF ADMINISTRATIVE HEARINGS ("DOAH"), to amend that certain Administrative Law Judge Services Contract, dated March 7, 2024 ("Contract").

WITNESSETH:

WHEREAS, on March 7, 2024, the Town and DOAH entered into a Contract, for DOAH's Administrative Law Judges ("ALJs") to conduct hearings for code enforcement hearings for which DOAH's ALJs may adjudicate violations, liens, and enforcement, as provided by Chapter 162, Florida Statutes and the Town Code of Ordinances; and

WHEREAS, the Town is in a need of a hearing officer to adjudicate appeals of the decisions by the Town of Fort Myers Beach Building Official, as provided in Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, the Town and DOAH wish to amend the Contract to expand the duties of DOAH's ALJs to include to include review of appeals as provided in Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code; and

WHEREAS, this First Amendment is in the best interests of the Town and is consistent with promotion of the health, safety, welfare, and morals of its residents.

NOW, THEREFORE, in consideration of the covenants set forth herein, the Town and DOAH agree to amend the Contract as follows:

1. **SCOPE OF SERVICES.** Paragraph 1 of the Contract is hereby amended to include DOAH ALJs' review of appeals by property owners, whose properties have been deemed unsafe by the Town Building Official, in accordance with Division 3 of Article I, and Division 2 of Article II, of Chapter 6 of the Town of Fort Myers Beach Land Development Code.

2. **REMAINING TERMS.** All other terms and conditions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, the Town and DOAH have executed this First Amendment to the Contract as of the date signed by the last party.

[Signature Page to Follow]

ATTEST:

**STATE OF FLORIDA, DIVISION OF
ADMINISTRATIVE HEARINGS**

Print Name: _____
Print Title: _____

Print Name: _____
Print Title: _____
Date: _____

TOWN OF FORT MYERS BEACH

Dan Allers, Mayor of Fort Myers Beach

Date: _____

ATTEST:

Amy Baker, Town Clerk

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

Vose Law Firm, Town Attorney