

RESOLUTION NUMBER 25-146

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RETROACTIVELY APPROVING A FIRST AMENDMENT TO THE EMERGENCY SERVICE PROVIDER AGREEMENT SPA-24-12-EN DATED DECEMBER 16, 2024 BETWEEN THE TOWN OF FORT MYERS BEACH AND ICS MATERIALS, INC., TO 1) EXTEND THE TERM OF SERVICE FROM NOVEMBER 6, 2024 TO DECEMBER 21, 2024 FOR DEBRIS AND HAZARD CLEAN UP SERVICES DUE TO HURRICANE MILTON; AND 2) INCREASE THE NOT TO EXCEED AMOUNT BY \$123,287.00 FROM \$300,000.00 TO \$423,287.00; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII(2)(b) of the Florida Constitution provides 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, on October 5, 2024, Governor Ron DeSantis by Executive Order No. 24-214 declared a State of Emergency throughout a certain area designated as Emergency Area ("Emergency Area"), based upon the serious threat to the public health, safety, and welfare posed by Tropical Storm Milton (the "Storm"); and

WHEREAS, on October 6, 2024, the Florida Department of Environmental Protection issued Emergency Final Order OGC NO. 24-2580 for an Emergency Area of 61 counties, including Lee County; and

WHEREAS, on October 6, 2024 the Florida Department of Environmental Protection issued Emergency Procurement Order OGC NO. 24-2580 to suspend, to the extent necessary to ensure said emergency response functions, the effect of any statute, rule, or order, including Chapter 255 and Sections 287.055(3)(a)-(d), 4(a)-(d), 5(a)-(c), and 287.057(3), Florida Statutes, and Chapters 60A- 1.002(4), 60A-1.021(2), and 60A-1.043(1)-(3), and 60D-5, Florida Administrative Code, to the extent needed to procure any and all necessary supplies, commodities, services, temporary premises, and other resources to include, without limiting the generality of the foregoing, any and all statutes, rules, and orders which affect budgeting, leasing, printing, purchasing, travel, the conditions of employment, and the compensation of employees as set forth in an established Tracker item at the Florida Emergency Operations Center, as prescribed in the State Comprehensive Emergency Management Plan, as directed by the State Coordinating Officer, or as directed by the Executive Office of the Governor; and

WHEREAS, on October 6, 2024 the Town of Fort Myers Beach approved Resolution 24-214 declaring a state of local emergency as authorized by Section 252.38(3), Florida Statutes, thereby waiving the procedures and formalities otherwise required of political subdivisions and allowing for expedited actions to protect public health, safety, and welfare during Tropical Storm Milton, which later became a hurricane; and

WHEREAS, Chapter 12 of the Town Code of the Town of Fort Myers Beach authorizes certain powers in the event of a local state of emergency; and

WHEREAS, the Town of Fort Myers Beach Code Sec. 2-480 (d) provides the basis for emergency purchase for the Town Manager to make, or authorize others to make, emergency purchases of supplies,

services or construction items when there exists a threat to public health, welfare or safety, provided that such emergency purchases are made with such competition as is practicable under the circumstances.

WHEREAS, on November 22, 2024, the Town Manager retroactively entered into an Emergency Service Provider Agreement (SPA-24-12) with ICS Materials Inc. (“ICS”) for emergency removal of debris and other hazards to public health and safety in the Town of Fort Myers Beach caused by Hurricane Milton, and to dispose of the debris at an authorized waste management facility to protect the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to abate the socioeconomic impacts on the community caused by debris impairing navigable waterways. The term of the agreement was from October 7, 2024 to November 6, 2024; and

WHEREAS, on December 16, 2024, the Town Council ratified contract SPA-24-12 between the Town of Fort Myers Beach and ICS Materials Inc.; and

WHEREAS, SPA-24-12 provided for a not-to-exceed amount of \$300,000.00 for costs and services associated with removal and disposal of debris and hazards; and

WHEREAS, the debris and hazards deposited onto the beaches, right-of-way, and Town property by Hurricane Milton substantially exceeded anticipated volume, requiring additional resources, time and efforts by ICS Materials Inc. to remove and dispose of debris; and

WHEREAS, to date the Town has received debris removal and disposal services provided by ICS, as supported by the reasonable circumstances and supporting invoices, in the amount of \$423,287.00, of which \$167,119.00 remains unpaid; and

WHEREAS, removal and disposal of all debris and hazards was necessary as in the best interest of the health, safety and welfare of the residents of the Town;

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

Section 1. The above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. This Resolution approves the First Amendment to SPA-24-12 with ICS Materials Inc. attached as Exhibit A.

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 Vice Mayor Atterholt and seconded by Mayor Allers, 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 19th day of May 2025 by the Town Council of the Town of Fort Myers Beach, Florida.

ATTEST:

Town of Fort Myers Beach



Amy Baker (Jul 25, 2025 16:11:53 EDT)

Amy Baker, Town Clerk



Dan Allers (Jul 25, 2025 14:37:12 EDT)

Dan Allers, Mayor

APPROVED AS TO FORM & SUFFICIENCY



Nancy Stuparich (Jul 25, 2025 15:41:31 EDT)

Vose Law Firm, Town Attorney

This Resolution was filed in the Office of the Town Clerk on: Jul 25, 2025.

Microsoft Word - 231106 Resolution 23-XX, Ratify ICS Contract

Final Audit Report

2025-07-25

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