

RESOLUTION NUMBER 25-147

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA RETROACTIVELY APPROVING THE FIRST AMENDMENT TO THE EMERGENCY SERVICE PROVIDER AGREEMENT SPA-24-10-EN DATED OCTOBER 4, 2024 BETWEEN THE TOWN OF FORT MYERS BEACH AND ICS MATERIALS, INC. FOR DEBRIS AND HAZARD CLEAN UP SERVICES DUE TO HURRICANE HELENE TO 1) EXTEND THE TERM OF THE AGREEMENT TO OCTOBER 8, 2024; AND 2) INCREASE THE NOT TO EXCEED AMOUNT BY \$17,942.40 FROM \$200,000.00 TO \$217,942.40; 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 September 23, 2024 Governor Ron DeSantis by Executive Order No. 24-208, as amended by Executive Order No. 24-209, declared a State of Emergency a certain area designated as Emergency Area ("Emergency Area"), based upon the serious threat to the public health, safety, and welfare posed by Hurricane Helene; and

WHEREAS, on September 24, 2024, the Florida Department of Environmental Protection issued Emergency Final Order OGC NO. 24-2534 for an Emergency Area of 61 counties including Lee County; and

WHEREAS, on September 24, 2024, the Florida Department of Environmental Protection issued Emergency Procurement Order OGC NO. 24-2533 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 September 23, 2024 the Town of Fort Myers Beach approved Resolution 24-192 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

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 October 4, 2024 the Town Manager retroactively entered into an Emergency Service Provider Agreement (SPA-24-10) with ICS Materials, Inc. (“ICS”) for a term of 10 days (from September 27, 2024 to October 7, 2024) to remove debris deposited by Hurricane Helene from the beaches, right of way, and Town property within the Town's jurisdiction in order to protect the health and welfare of the citizens and visitors of the Town of Fort Myers Beach, as well as to protect the financial well-being of the businesses in the Town that depend on tourism; and

WHEREAS, on October 28, 2024, the Town Council ratified contract SPA-24-10-EN between the Town of Fort Myers Beach and ICS; and

WHEREAS, SPA-24-10 provided for a not-to-exceed amount of \$200,000.00 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 Helene substantially exceeded anticipated volume, requiring additional resources, time and efforts by ICS 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 \$217,942.40, of which \$17,042.40 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-24-10 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 Council Member King and upon being put to a roll call vote, the result was as follows:

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| 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.

FORT MYERS BEACH TOWN COUNCIL

Dan Allers

Dan Allers (Jul 25, 2025 11:21:01 EDT)

Dan Allers, Mayor

ATTEST:

Amy Baker

Amy Baker (Jul 25, 2025 15:55:49 EDT)

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 (Jul 25, 2025 14:40:36 EDT)

Vose Law Firm, LLP, Town Attorney

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