

RESOLUTION NUMBER 25-148

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-24-13-EN DATED DECEMBER 18, 2024 BETWEEN THE TOWN OF FORT MYERS BEACH AND ICS MATERIALS, INC; AMENDIN. TO AMEND THE NOT TO EXCEED AMOUNT BY \$53,971.69 FROM \$900,000.00 TO \$953,971.69; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII(2)(b) of the Florida Constitution 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, 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 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, 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 October 24, 2024 the Town Manager entered into an Emergency Service Provider Agreement (“SPA-24-13”) with ICS Materials Inc. (“ICS”)with a not-to-exceed amount of \$900,000.00 for a term of 94 days, from the 2nd day of November to the 4th day of February 2025, to screen debris from sand overwashed by Hurricane Milton to produce beach compatible sand, and returning screened sand to the beach to protect upland properties and 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 the 8th day of January, 2025 the Town Council ratified contract SPA-24-13 between the Town of Fort Myers Beach and ICS Materials Inc.; and

WHEREAS, SPA-24-13 provided for a not-to-exceed amount of \$900,000.00 for costs and services associated with removal and screening of sand and disposal of debris; and

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

WHEREAS, to date the Town has received sand screening and debris disposal services provided by ICS, as supported by the reasonable circumstances and supporting invoices, in the amount of \$953,971.69, of which \$53,971.69 remains unpaid; and

WHEREAS, screening of sand and disposal of debris 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-24-13-EN 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 16:08:18 EDT)

Amy Baker, Town Clerk



Dan Allers (Jul 25, 2025 14:57:35 EDT)

Dan Allers, Mayor

APPROVED AS TO FORM & SUFFICIENCY



Nancy Stuparich (Jul 25, 2025 15:12:26 EDT)

Vose Law Firm, Town Attorney

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