

RESOLUTION 2023-20

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, FINDING A STATE OF LOCAL EMERGENCY IN THE VILLAGE DUE TO HURRICANE IDALIA AND ITS POTENTIAL THREAT OF HARM TO THE RESIDENTS AND PROPERTY OF THE VILLAGE; AND PROVIDING FOR EFFECTIVE AND TERMINATION DATES.

WHEREAS, as of August 29th 2023, Hurricane Idalia (the Storm) posed a serious potential threat to the residents and property of the Village of Estero (the Village); and

WHEREAS, on August 26th 2023, the Governor of the State of Florida promulgated Executive Order 23-171 declaring a State of Emergency for an initial thirty three counties including Lee County as a result of the Storm; and

WHEREAS, the Storm has the potential to cause extensive damage to public utilities, public buildings, public communication systems, public streets and roads, public drainage systems, as well as commercial and residential buildings and areas; and

WHEREAS, it is therefore necessary for the Village to take protective measures to ensure the safety of its residents; and

WHEREAS, Florida Statutes Chapter 252 and § 4(C) of the Executive Order provide authority for the Village to declare a State of Emergency allowing the Village to waive the procedures and formalities otherwise required of political subdivisions by law pertaining to:

1. Performance of public work and taking whatever action is necessary to ensure the health, safety and welfare of the community.
2. Complying with local procurement and contracting policies;
3. Entering into contracts, however, with the caution against entering into time and materials contracts without a ceiling as defined by 2 C.F.R. § 200.318(j) or cost plus percentage of cost contracts prohibited by 2 C.F.R. § 200.324(d);
4. Incurring obligations;
5. Employment of permanent and temporary workers;
6. Utilization of volunteer workers;
7. Rental of equipment;
8. Acquisition and distribution, with or without compensation of supplies, materials and facilities;
9. Appropriation and expenditures of public funds.

WHEREAS, § 7(e) of the Council's procedures, adopted by Resolution 2017-12, authorizes the Mayor to call an emergency meeting, the notice of which shall specify the

subject of the emergency meeting; and

WHEREAS, the Mayor has called an emergency meeting at 1:30 p.m. on August 29th 2023 for the purposes of adopting this declaration of local emergency; and

WHEREAS, Resolution 2022-18 authorizes Council Members to attend a meeting by remote electronic means under unusual or special circumstances; and

WHEREAS, the Village Council finds that the proximity of a named hurricane to the Village constitutes an unusual and special circumstance justifying remote appearance of Council Members to gain a quorum and to prevent unnecessary traffic on area roads during storm preparation.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA THAT:

Section 1. The Council finds that, as of the effective date of this Resolution, a state of local emergency exists for all territory within the legal boundaries of the Village due to the likely significant impacts of the Storm on the Village.

Section 2. During this state of local emergency, the Village Manager shall exercise all such authority as provided to that official, and shall be permitted to authorize the waiver of any procedures and formalities as provided in Florida Statutes § 252.28(3) and the Executive Order, which waiver is necessary to prepare for or respond to the grave public danger or emergency. These authorities include:

1. To appropriate and expend funds; make contracts; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any emergency; and direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies.
2. To appoint, employ, remove, or provide, with or without compensation, coordinators, rescue teams, fire and police personnel, and other emergency management workers.
3. To establish, as necessary, a primary and one or more secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.
4. To assign and make available for duty the offices and agencies of the political subdivision, including the employees, property, or equipment thereof relating to firefighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency operation purposes, as the primary emergency management forces of the political

subdivision for employment within or outside the political limits of the subdivision.

5. To request state assistance or invoke emergency-related mutual-aid assistance by declaring a state of local emergency in the event of an emergency affecting only one political subdivision. The duration of each state of emergency declared locally is limited to 7 days; it may be extended, as necessary, in 7-day increments. Further, the political subdivision has the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:
 - a. Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.
 - b. Entering into contracts.
 - c. Incurring obligations.
 - d. Employment of permanent and temporary workers.
 - e. Utilization of volunteer workers.
 - f. Rental of equipment.
 - g. Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.
 - h. Appropriation and expenditure of public funds.

Section. 4. Pursuant to § 10-28 of the Village Code, the Manager shall also be empowered to:

1. To utilize emergency or reserve funds of the Village may be accessed by the Village Manager for any purpose.
2. To appropriate funds, incur debt and expend such other funds as necessary.
3. To incur obligations and enter into contracts consistent with Village's emergency procurement regulations.
4. To request federal, state, or local assistance or to invoke mutual aid agreements.
5. To obtain and distribute equipment, materials, and supplies for emergency purposes.
6. To coordinate and implement emergency management programs, including mutual aid programs, applicable to the emergency conditions.

7. To appoint, employ, remove, or provide such personnel, with or without compensation, as needed.

8. To establish, as necessary, primary and secondary emergency operating centers to provide continuity of government, victim relief, or direction and control of emergency operations.

9. To suspend or limit the sale of alcohol.

10. To assign or make available for duty the resources and facilities of the Village, including employees, property, or equipment to other entities for emergency operation purposes within or outside the Village limits.

11. To make provisions for availability and use of temporary emergency housing or warehousing of relief supplies.

12. To utilize all available resources of the Village as reasonably necessary to cope with the emergency.

Section 5. Pursuant to § 10-27 of the Village Code, during this declared local state of emergency, the following prohibitions shall apply throughout the Village, unless and until one or more of such prohibitions have been waived or modified by action of the Village Council:

1. It shall be unlawful and an offense against the Village for any person, firm, or corporation to use a potable water supply for any purpose other than cooking, drinking or bathing.

2. It shall be unlawful for any person to be out on the public rights-of-way or other public areas of the Village between dusk and dawn, except for law enforcement officers, members of the Village Fire Rescue, San Carlos Park Fire Protection and Rescue Service District, Bonita Springs Fire Control and Rescue District, or other fire districts providing mutual aid, emergency medical personnel, Village Councilmembers, and other persons authorized by the Village Manager.

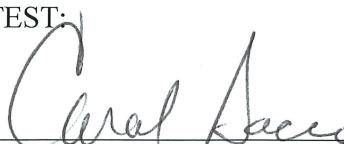
3. It shall be unlawful for a person or the person's agent or employee to rent or sell or offer to rent or sell at an unconscionable price within the Village, any essential commodity, including, but not limited to, supplies, services, provisions, or equipment that is necessary for consumption or use as a direct result of the emergency. The evidentiary standards and defenses contained in F.S. § 501.160 shall be used to determine whether a price is unconscionable.

Section 6. The state of local emergency presented by the Storm shall terminate at 12:01 a.m. on Friday, September 8th 2023, unless extended or earlier terminated by the City Council by simple motion.

Section 7. This Resolution shall become effective immediately upon its adoption.

Adopted by the Village Council of the Village of Estero, Florida, this 29th day of August, 2023.

ATTEST:



Carol Sacco, Village Clerk



Jon McLain, Mayor