

R2019-26: INTERGOVERNMENTAL AGREEMENT BETWEEN HORRY COUNTY AND THE CITY OF MYRTLE BEACH TO ALLOCATE COUNTY-WIDE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING AND TO DISTRIBUTE THE BENEFITS THEREOF.

Applicant/Purpose: Staff/to enter into a new 3-year intergovernmental agreement w/Horry County to distribute the Countywide allocation of CDBG funds.

Brief:

- To increase the City’s CDBG funding Myrtle Beach relinquished direct recipient status & cooperated w/ Horry County to obtain Urban County Entitlement status in 2008.
- The two jurisdictions have entered into several 3-year Intergovernmental agreements since 2008, w/ the most recent being 10/1/16.
- This 3-year agreement is scheduled to begin 10/1/19
- The agreement has proven to be beneficial to each jurisdiction.
- Proposed resolution authorizes City Manager:
 - To enter into intergovernmental agreement w/ Horry County to distribute that funding.
 - To make minor changes to this proposed agreement.

Issues:

- The only differences b/w this agreement & past agreements is the % amount allocated to the City & the City of Conway is opting out of the agreement.
- The past agreements the City of Myrtle Beach % was fixed at 29% of the Urban County total.
- In this agreement the % is fixed at 25% for each year

FY	Horry	COMB	Conway
19/20	75%	25%	0%
20/21	75%	25%	0%
21/22	75%	25%	0%

- Proposed agreement is similar to previous agreement w/ certain conditions, such as:
 - Agreement stipulates HUD’s requirement to spend the allocated funds in a timely manner
 - Requires the City to execute a subrecipient agreement annually
 - The City agrees to comply w/ a ‘restrictive covenant’ requirement which states:
 - Any projects costing b/w \$20,000 & \$50,000 must be able to provide benefits to low-moderate-income persons or areas for a minimum of 10 yrs.
 - Any projects b/w \$50,001 & \$100,000 the minimum is 15 yrs.
 - Any project b/w \$100,001 & \$150,000 the minimum is 20 yrs.
 - Projects over \$150,001 the minimum is 30 yrs.

Public Notification: Normal meeting notification.

Alternatives: The City could consider becoming a HUD direct recipient or apply directly to State on a project-by-project basis. If the City becomes a direct recipient, significant administrative burdens would follow.

Financial Impact: In the 2019-20 budget, the City will be granted \$369,758 in CDBG funding. If the City decided to become a CDBG direct recipient, it would expect to see \$288,000 in FY19/20.

Manager’s Recommendation: I recommend approval.

Attachment(s): Proposed resolution/agreement

**INTERGOVERNMENTAL AGREEMENT
BETWEEN
HORRY COUNTY AND THE CITY OF MYRTLE BEACH TO MAXIMIZE THE
AMOUNT OF COUNTY-WIDE
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING
AND TO PROPORTIONATELY ALLOCATE THE BENEFITS THEREOF**

WHEREAS, the Horry County Council, and the Myrtle Beach City Council are committed to improving the quality of life for low and moderate income residents of their respective jurisdictions; and,

WHEREAS, toward that end Horry County has obtained the status of Urban County Entitlement from HUD in 2008; and

WHEREAS, Horry County receives funds pursuant to a Consolidated Entitlement Community Development Block Grant (CDBG) awarded by the United States Housing and Urban Development Department, pursuant to provision of Title I of Housing and Urban Development Act of 12974, as amended, Public Law 93-383, and 24 CFR, part 570, as amended; and

WHEREAS, the respective Councils of the two jurisdictions desire to work cooperatively to maximize the county-wide amount of CDBG funding for low-income residents/ areas;

NOW, THEREFORE, Horry County, and the City of Myrtle Beach, hereby enter into this inter-local agreement with the following describing the agreement of the respective jurisdictions to work together to maximize the amount of county-wide CDBG funding and to fairly allocate the benefits thereof:

1. Myrtle Beach agreed in 2008 to surrender their CDBG entitlement designations in order to maximize the amount of the county-wide CDBG funding.
2. In compliance with HUD's CDBG regulations, the County is required to administer the Urban County Entitlement Block Grant. An amount of 20% (cap regulated by HUD) of the gross county-wide entitlement shall be reserved by the County to cover these costs.
3. All projects and activities applied for by each jurisdiction shall be approved by the County, to ensure the activity complies with HUD's rules and regulation, including public service activities, which has a 15% cap. Such approval shall be for the purpose of determining project eligibility and regulatory compliance (including Federal procurement) only. Project applications will be submitted to the County by **February 1st** annually (or the following business day, should February 1st fall on a weekend).

4. The City of Myrtle Beach will act as a subrecipient for the purposes of receiving an allocation of their respective portions of the grant. Each will manage their projects and activities, and will provide such reporting and information to the Horry County Community Development Office quarterly. Quarterly reports shall include the progress made to date, or justification for lack of progress; demographic and income information regarding persons assisted; and required data to illustrate that all CDBG requirements including national objectives have been met.
5. The county-wide entitlement is to be allocated between the two jurisdictions based on the following percentages of the Net County-wide Entitlement: Horry County – 75%; and Myrtle Beach – 25%.
6. HUD requires timeliness of spending pursuant to 24 CFR 570.902. The County will determine timeliness of spending by reviewing the amount of funds unspent by each jurisdiction to determine whether or not it is 1.5 times the current program year's award on April 1st, annually. Jurisdictions with over 1.5 times unspent will be given 12 months to become complaint and participate in a monitoring program. The second violation of this policy will cause the County to deobligate funds from the City in the amount of the excess funding above the allowable threshold. Deobligated funds not reverted to HUD may be allocated to the other party.
7. Either jurisdiction may request additional funds be allocated to an activity by February 1st annually. Funding in excess of the total annual HUD allocation must be mutually agreed upon by the two jurisdictions and repaid in full within a three year period.
8. As a subrecipient, Myrtle Beach agrees to execute an annual subrecipient agreement to comply with the requirements of Title 24 of the Code of Federal Regulations. Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG) including subpart J and subpart K. The subrecipient shall comply with all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to the CDBG program. The applicable laws and regulations include but are not limited to:
 - 24 CFR Parts 570, 84 and 85;
 - OMB Circular A-87 "Cost Principles for State and Local Governments,"
 - OMB Super Circular 2 CFR-200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards"
 - The Davis-Bacon Fair Labor Standards Act;
 - The Contract Work Hours and Safety Standards Act of 1962;
 - Copeland "Anti-Kickback" Act of 1934;

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
 - Title VI of the Civil Rights Act of 1964; (Public Law 88-352 implemented in 24 CFR Part 1)
 - Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
 - Sections 104(b) and 109 of the Housing and Community Development Act of 1974;
 - Section 3 of the Housing and Urban Development Act of 1968;
 - Equal employment opportunity and minority business enterprise regulations established in 24 CFR part 570.904;
 - Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086);
 - Section 504 of the Rehabilitation Act of 1973 Uniform Federal Accessibility Standards;
 - The Architectural Barriers Act of 1968;
 - The Americans With Disabilities Act (ADA) of 1990;
 - The Age Discrimination Act of 1975, as amended;
 - National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended;
 - Lead Based paint regulations established in 24 CFR Parts 35, 570.608, and 24 CFR 982.401;
 - Asbestos guidelines established in CPD Notice 90-44;
 - HUD Environmental Criteria and Standards (24 CFR Part 51);
 - Immigration Reform and Control Act of 1986;
 - South Carolina Payment of Wages Act, S.C. Code §§ 41-10-10 et seq.;
 - South Carolina Worker’s Compensation Act, S.C. Code §§ 42-1-10 et seq.;
 - South Carolina Illegal Immigration Reform Act, including without limitation Chapters 14&29, Title 8, and Chapter 8, Title 41, S.C. Code of Laws;
 - Part 681, Title 16 of the Code of Federal Regulations, Sections 114 and 315 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003; the South Carolina Act 190 of 2008; Financial and Identity Theft Protection Act; and the Horry County Privacy / Identity Theft Policy.
9. The Subrecipient agrees to comply with a “Restrictive Covenants” requirement, which assures that capital investments will provide long-term, continuous benefits to low- and moderate-income persons or areas. Any projects or capital improvement cost paid with more than \$20,000 and up to \$50,000 in CDBG funds must be able to provide benefits to low- and moderate-income persons or areas for a minimum of ten (10) years at the project site. For projects exceeding \$50,000 and up to \$100,000 in CDBG funds, the minimum continuing use is fifteen (15) years. Projects that exceed \$100,000 to \$150,000 in CDBG funds must be held in the same use for at least twenty (20) years. Projects that are over \$150,000 in CDBG funds must be held in the same use for a minimum of thirty (30) years.

- 10. To the extent permitted by law and by HUD regulations, each jurisdiction agrees to hold the other jurisdiction harmless from any liability arising from CDBG-funded activities, and/or any financial penalties that may result from use of CDBG funds later determined to be inappropriate by HUD.

- 11. Upon effective approval by both governing bodies, and properly signed below; this agreement shall be in effect for a period of three years, such term beginning October 1, 2019, to expire as set forth before, provided, however, the term of the agreement shall be automatically extended for an additional three years on July 1, 2022, unless either jurisdiction provides prior written notice to the other of their intent to withdraw from the Agreement.

WITNESSES:

FOR HORRY COUNTY:

By: _____

Its: County Administrator

Date: _____

WITNESSES:

FOR CITY of MYRTLE BEACH

By: _____

Its: City Manager

Date: _____