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1 **R2022-022: INTERGOVERNMENTAL AGREEMENT BETWEEN HORRY COUNTY AND THE**  
2 **CITY OF MYRTLE BEACH TO ALLOCATE COUNTY-WIDE COMMUNITY DEVELOPMENT**  
3 **BLOCK GRANT (CDBG) FUNDING AND TO DISTRIBUTE THE BENEFITS THEREOF.**

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

- 8 • To increase the City's CDBG funding Myrtle Beach relinquished direct recipient status &  
9 cooperated w/ Horry County to obtain Urban County Entitlement status in 2008.
- 10 • The two jurisdictions have entered into several 3-year Intergovernmental agreements since 2008,  
11 w/ the most recent being 5/28/19.
- 12 • This 3-year agreement is scheduled to begin 10/1/22
- 13 • The agreement has proven to be beneficial to each jurisdiction.
- 14 • Proposed resolution authorizes City Manager:
  - 15 ○ To enter into intergovernmental agreement w/ Horry County to distribute that funding.
  - 16 ○ To make minor changes to this proposed agreement.

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18 **Issues:**

- 19 • This agreement maintains the 75%/25% split between Horry County and the City.
- 20 • Proposed agreement is similar to previous agreement w/ certain conditions, such as:
  - 21 ○ Agreement stipulates HUD's requirement to spend the allocated funds in a timely manner
  - 22 ○ Requires the City to execute a subrecipient agreement annually
  - 23 ○ The City agrees to comply w/ a 'restrictive covenant' requirement which states:
    - 24 ▪ Any projects costing b/w \$20,000 & \$50,000 must be able to provide benefits to low-
    - 25 moderate-income persons or areas for a minimum of 10 yrs.
    - 26 ▪ Any projects b/w \$50,001 & \$100,000 the minimum is 15 yrs.
    - 27 ▪ Any project b/w \$100,001 & \$150,000 the minimum is 20 yrs.
    - 28 ▪ Projects over \$150,001 the minimum is 30 yrs.

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30 **Public Notification:** Normal meeting notification.  
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32 **Alternatives:** The City could consider becoming a HUD direct recipient or apply directly to State on a  
33 project-by-project basis. If the City becomes a direct recipient, significant administrative burdens would  
34 follow.  
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36 **Financial Impact:** In the 2022-23 budget, the City will be granted \$381,039 in CDBG funding.  
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38 **Manager's Recommendation:** I recommend approval.  
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40 **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**

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**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 jurisdictions desire to work cooperatively to maximize the county-wide among of CDBG funding for low-income residents/ areas;

**NOW, THEREFORE**, Horry County and the City of Myrtle Beach hereby enter into this intergovernmental 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 its CDBG entitlement designation 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 1<sup>st</sup>** annually (or the following business day, should February 1<sup>st</sup> fall on a weekend).

- 1           4. The City of Myrtle Beach will act as a subrecipient for the purposes of receiving an  
2 allocation of their respective portions of the grant. Each will manage their projects and  
3 activities, and will provide such reporting and information to the Horry County  
4 Community Development Office quarterly. Quarterly reports shall include the progress  
5 made to date, or justification for lack of progress; demographic and income information  
6 regarding persons assisted; and required data to illustrate that all CDBG requirements  
7 including national objectives have been met.  
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- 9           5. The county-wide entitlement is to be allocated between the two jurisdictions based on the  
10 following percentages of the Net County-wide Entitlement: Horry County – 75%; and Myrtle  
11 Beach – 25%.  
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- 13           6. HUD requires timeliness of spending pursuant to 24 CFR 570.902. The County will determine  
14 timeliness of spending by reviewing the amount of funds unspent by each jurisdiction to  
15 determine whether or not it is 1.5 times the current program year’s award on April 1<sup>st</sup>, annually.  
16 Jurisdictions with over 1.5 times unspent will be given 12 months to become compliant and  
17 participate in a monitoring program. The second violation of this policy may result in  
18 deobligation of funds in the amount of the excess funding above the allowable threshold.  
19 Deobligated funds not reverted to HUD may be reallocated.  
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- 21           7. Any jurisdiction may request additional funds be allocated to an activity by February 1<sup>st</sup> annually.  
22 Funding in excess of the total annual HUD allocation must be mutually agreed upon by both  
23 jurisdictions and repaid within full within a three year period.  
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- 25           8. As a Subrecipient, the City agrees to execute an annual subrecipient agreement to comply with  
26 the requirements of Title 24 of the Code of Federal Regulations. Part 570 (the U.S. Housing and  
27 Urban Development regulations concerning Community Development Block Grants (CDBG)  
28 including subpart J and subpart K. The Subrecipient shall comply with all rules, regulations,  
29 guidelines, and circulars promulgated by the various Federal departments, agencies,  
30 administrations, and commissions relating to the CDBG program. The applicable laws and  
31 regulations include but are not limited to:  
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- 33           ▪ 24 CFR Parts 570, 84, and 85, as applicable;
  - 34           ▪ 2 CFR 200 “Uniform Administrative Requirements, Cost Principles, and Audit  
35           Requirements for Federal Awards”
  - 36           ▪ The Davis-Bacon Fair Labor Standards Act;
  - 37           ▪ The Contract Work Hours and Safety Standards Act of 1962;
  - 38           ▪ Copeland “Anti-Kickback” Act of 1934;
  - 39           ▪ Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970,  
40           as amended (URA);

- 1           ▪ Title VI of the Civil Rights Act of 1964; (Public Law 88-352 implemented in 24 CFR
- 2           Part 1)
- 3           ▪ Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and
- 4           Executive Order 11063 as amended by Executive Order 12259 (implemented in 24
- 5           CFR Part 107);
- 6           ▪ Sections 104(b) and 109 of the Housing and Community Development Act of 1974;
- 7           ▪ Section 3 of the Housing and Urban Development Act of 1968 and its associated
- 8           implementing regulations at 24 CFR 75;
- 9           ▪ Equal employment opportunity and minority business enterprise regulations
- 10          established in 24 CFR part 570.904;
- 11          ▪ Non-discrimination in employment, established by Executive Order 11246 (as
- 12          amended by Executive Orders 11375 and 12086);
- 13          ▪ Section 504 of the Rehabilitation Act of 1973 Uniform Federal Accessibility
- 14          Standards;
- 15          ▪ The Architectural Barriers Act of 1968;
- 16          ▪ The Americans With Disabilities Act (ADA) of 1990;
- 17          ▪ The Age Discrimination Act of 1975, as amended;
- 18          ▪ National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended;
- 19          ▪ Lead Based paint regulations established in 24 CFR Parts 35, 570.608, and 24 CFR
- 20          982.401;
- 21          ▪ Asbestos guidelines established in CPD Notice 90-44;
- 22          ▪ HUD Environmental Criteria and Standards (24 CFR Part 58);
- 23          ▪ Immigration Reform and Control Act of 1986;
- 24          ▪ South Carolina Payment of Wages Act, S.C. Code §§ 41-10-10 *et seq.*;
- 25          ▪ South Carolina Worker’s Compensation Act, S.C. Code §§ 42-1-10 *et seq.*;
- 26          ▪ South Carolina Illegal Immigration Reform Act, including without limitation
- 27          Chapters 14&29, Title 8, and Chapter 8, Title 41, S.C. Code of Laws;
- 28          ▪ Part 681, Title 16 of the Code of Federal Regulations, Sections 114 and 315 of the
- 29          Fair and Accurate Credit Transactions Act (FACTA) of 2003; the South Carolina Act
- 30          190 of 2008; Financial and Identity Theft Protection Act; and the Horry County
- 31          Privacy / Identity Theft Policy.

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- 33   9. The Subrecipient agrees to comply with a “Restrictive Covenants” requirement, which
- 34   assures that capital investments will provide long-term, continuous benefits to low- and
- 35   moderate-income persons or areas. Any projects or capital improvement cost paid with
- 36   more than \$20,000 and up to \$50,000 in CDBG funds must be able to provide benefits to
- 37   low- and moderate-income persons or areas for a minimum of ten (10) years at the
- 38   project site. For projects exceeding \$50,000 and up to \$100,000 in CDBG funds, the
- 39   minimum continuing use is fifteen (15) years. Projects that exceed \$100,000 to \$150,000
- 40   in CDBG funds must be held in the same use for at least twenty (20) years. Projects that
- 41   are over \$150,000 in CDBG funds must be held in the same use for a minimum of thirty
- 42   (30) years.
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1 10. To the extent permitted by law and by HUD regulations, each jurisdiction agrees to fully  
2 release and discharge the other jurisdiction, and all of its agents and employees, from any  
3 and all liability or responsibility for any injury, loss or damage whatsoever occasioned by  
4 the jurisdiction's performance or nonperformance of the services or subject matter called  
5 for in this Agreement. Each jurisdiction shall be wholly responsible for its own employees'  
6 and agents' acts or omissions that result in any loss or damage to any property or injury  
7 to any person arising out of or connected with the operation of this Agreement, or any  
8 liability arising from CDBG-funded activities, and/or any financial penalties that may result  
9 from use of CDBG funds later determined to be inappropriate by HUD.

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11 11. Each cooperating unit of general local government certifies that it has adopted and is  
12 enforcing:  
13 a) A policy prohibiting the use of excessive force by law enforcement agencies  
14 within its jurisdiction against any individuals engaged in non-violent civil rights  
15 demonstrations; and  
16 b) A policy of enforcing applicable State and local laws against physically barring  
17 entrance to or exit from a facility or location which is the subject of such non-  
18 violent civil rights demonstrations within jurisdictions.

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20 12. Pursuant to 24 CFR § 570.501(b), the City of Myrtle Beach is subject to the same  
21 requirements applicable to subrecipients, including the requirement of a written  
22 agreement as described in 24 CFR § 570.503.

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24 13. Jurisdictions that are a party to this agreement may not sell, trade, or otherwise transfer  
25 all or any portion of CDBG funds to another such metropolitan city, urban county, unit of  
26 general local government, or Indian tribe, or insular area that directly or indirectly  
27 receives CDBG funds in exchange for any other funds, credits, or non-Federal  
28 considerations, but must use such funds for activities eligible under Title I of the Act.

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30 14. Upon effective approval by all governing bodies, and properly signed below; this  
31 agreement shall be in effect for a period of three years, such term beginning October 1,  
32 2022, to expire as set forth before, provided, however, the term of the agreement shall  
33 be automatically extended for an additional three years on July 1, 2025, unless one of the  
34 jurisdictions provides prior written notice to the other jurisdiction of their intent to  
35 withdraw from the Agreement.

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**WITNESSES:**

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**WITNESSES:**

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**FOR HORRY COUNTY:**

By: \_\_\_\_\_

Its: County Administrator

Date: \_\_\_\_\_

**FOR CITY OF MYRTLE BEACH:**

By: \_\_\_\_\_

Its: City Manager

Date: \_\_\_\_\_