
1 **R2023-5: AUTHORIZING THE CITY MANAGER TO ENTER INTO AN**
2 **AGREEMENT WITH HABITAT FOR HUMANITY OF Horry COUNTY,**
3 **INC. FOR MANAGEMENT OF THE CITY'S WORKFORCE HOUSING**
4 **STRATEGIC PLAN.**

5 **Applicant/Purpose:** Staff / to enter into an agreement with Habitat for Humanity for
6 Management of the City's workforce housing strategic plan.

7
8 **Brief:**

- 9 • City Council adopted a Workforce Housing Strategic Plan (R2023-3).
- 10 • Habitat agrees to manage and implement the City's workforce housing strategy
11 per the terms of the attached agreement

12
13 **Issues:**

- 14 • Some of the relevant portions of the contract include:
 - 15 • Before the distribution of City Funds each year, Habitat shall submit for
16 approval by the City Council a Detailed Plan and Budget to implement the
17 Workforce Housing Strategic Plan.
 - 18 • The Detailed Plan shall specifically indicate the goals of the Workforce
19 Housing Strategic Plan and the strategies proposed to achieve those goals
20 for the City fiscal year
 - 21 • Habitat shall account for City funds in a separate account. The City Funds
22 may not be commingled with any other funds of Habitat except for any other
23 grants, donations, gifts, etc., used exclusively for the Workforce Housing
24 Strategic Plan.
 - 25 • Every other month beginning in April 2023, Habitat shall provide the City
26 Manager with a written update on encumbrances and expenditures to
27 accomplish budgetary objectives
 - 28 • Upon the City's receipt, the update shall be a public document and shall be
29 available from the City and Habitat on the media platforms of both Parties
 - 30 • No later than September 30, Habitat shall provide the City Manager with an
31 accounting of the encumbrances and expenditures from the City Funds and
32 Workforce Housing Strategic Plan results for the prior City fiscal year.
 - 33 • After receipt by the City Manager, Habitat shall present the accounting to City
34 Council in public session

35
36 **Alternatives:** Amend or deny the Resolution.

37
38 **Financial Impact:**

- 39 • The term of the agreement is 3.1.23 – 8.31.24 @ \$50,343.50 / per quarter =
40 \$302,061.
- 41 • The City's Workforce Housing monies is the funding source.

42
43 **Manager's Recommendation:** I recommend approval.

44
45 **Attachment(s):** Resolution, agreement

RESOLUTION R2023-5

**CITY OF MYRTLE BEACH
COUNTY OF Horry
STATE OF SOUTH CAROLINA**

**AUTHORIZING THE CITY MANAGER TO
ENTER INTO AN AGREEMENT WITH
HABITAT FOR HUMANITY OF Horry
COUNTY, INC. FOR MANAGEMENT OF THE
CITY’S WORKFORCE HOUSING
STRATEGIC PLAN**

WHEREAS, the City of Myrtle Beach, South Carolina (the “City”) is an incorporated municipality located in Horry County, South Carolina and has all powers granted to municipalities by the Constitution and general laws of this State; and

WHEREAS, the Myrtle Beach City Council (“City Council”) has adopted a Workforce Housing Strategic Plan; and

WHEREAS, it is in the public’s interest and welfare for the City to enter into an agreement with Habitat for Humanity of Horry County, Inc. to manage and oversee the City’s Workforce Housing Strategic Plan (the “Agreement”); and

NOW, THEREFORE, BE IT RESOLVED the City Manager is hereby authorized to execute the Agreement in substantially the same form as attached hereto and incorporated herein as Attachment 1. The City Manager, in consultation with the City Attorney, may make or accept minor modifications to the wording and designations of the attached Agreement as may be necessary or appropriate, provided there is no compromise of the substantive purposes of this City Council action. Should the City Manager or City Attorney, or both, determine that any modification of previously negotiated terms is significant and warrants further actions by City Council, then the matter shall be presented to Council for further review before final execution.

SIGNED, SEALED and DATED on this 14th day of February, 2023.

ATTEST:

BRENDA BETHUNE, MAYOR

JENNIFER ADKINS, CITY CLERK

ATTACHMENT 1

1 **AGREEMENT BETWEEN THE CITY OF MYRTLE BEACH AND**
2 **HABITAT FOR HUMANITY OF HORRY COUNTY FOR MANAGEMENT OF**
3 **THE CITY'S WORKFORCE HOUSING STRATEGIC PLAN**
4

5 This Agreement is entered into this ____ day of _____, 2023, by and between the City of Myrtle
6 Beach, South Carolina (the "City"), a body politic, and Habitat for Humanity of Horry County, Inc.
7 ("Habitat"). In consideration of Habitat's promise to deliver or perform the services outlined herein
8 and to satisfy the terms and conditions of this Agreement, the City agrees to disburse the funds as
9 described in Section 2. Habitat hereby expressly agrees to the terms and conditions outlined in
10 this Agreement.
11

12 **1. SCOPE OF SERVICES.** Habitat agrees to provide management and oversight services related
13 to implementation of the City's Workforce Housing Strategic Plan as outlined in City resolution
14 R2023-XXX, and as further enumerated in Attachment A ("Scope of Services").
15

16 **2. FUNDING.** In compensation for the services listed in Attachment A and satisfaction of the other
17 terms and conditions of this Agreement, the City agrees to pay Habitat the sum of \$302,061.00
18 (the "City Funds") for the period March 1, 2023 through August 31, 2024. The City Funds shall
19 be used for such valid public purposes under South Carolina law as are expressly identified in
20 Attachment B of this Agreement ("Sources and Uses of Funds"), the City's approved fiscal year
21 budgets, and any subsequent amendments thereto. The City Funds will be disbursed beginning
22 on March 1, 2023 as follows:
23

- 24 • March 1, 2023 - \$50,343.50
- 25 • June 1, 2023 - \$50,343.50
- 26 • September 1, 2023 - \$50,343.50
- 27 • December 1, 2023 - \$50,343.50
- 28 • March 1, 2024 - \$50,343.50
- 29 • June 1, 2024 - \$50,343.50
- 30

31 City Funds not expended or encumbered prior to the end of the term of this Agreement shall
32 be retained by Habitat and used to fund a subsequent Agreement with the City, if any, or returned
33 to the City at the City's sole discretion. City Funds not expended prior to the date of any early
34 termination pursuant to Section 4 shall be returned to the City.
35

36 **3. DETAILED PLAN AND BUDGET FOR WORKFORCE HOUSING PROGRAM.** Before the
37 distribution of City Funds each City fiscal year, which commences July 1 and ends June 30,
38 Habitat shall submit for approval by the City Council a Detailed Plan and Budget to implement
39 the Workforce Housing Strategic Plan. The Detailed Plan shall specifically indicate the goals of
40 the Workforce Housing Strategic Plan and the strategies proposed to achieve those goals for the
41 City fiscal year. The Budget shall describe the uses and amounts of the funds anticipated to be
42 received for this purpose during each City fiscal year. Both the Detailed Plan and the Budget
43 shall be the product of cooperative meetings between the parties to establish what shall be the
44 effective use of said City Funds.
45

46 **4. TERM AND TERMINATION.** Unless otherwise provided herein, the term of this Agreement

1 shall commence as of March 1, 2023 and shall continue, unless terminated earlier, until August
2 31, 2024. The parties may enter into a new Agreement contingent on approval and appropriation
3 of funding by City Council, and approval by Habitat's Board of Directors. The City may terminate
4 this Agreement upon thirty (30) days written notice to Habitat and no additional payment of City
5 Funds shall be required after the date of the notice of termination. If this Agreement is terminated,
6 Habitat shall provide an accounting of encumbrances and expenditures through the date of
7 termination. If it is later determined that the City Funds disbursed hereunder were not
8 encumbered or spent in compliance with this Agreement, Habitat shall, upon the City's demand,
9 repay all or such portion of the City Funds received hereunder as the City may reasonably
10 determine not to have been spent appropriately.

11
12 **5. ACCOUNTING, REPORTING AND TRANSPARENCY REQUIREMENTS.** The City Funds
13 shall be accounted for in a separate fund according to Generally Accepted Accounting Principles
14 for governmental and non-profit reporting entities. The City Funds may not be commingled with
15 any other funds of Habitat except for any other grants, donations, gifts, etc., used exclusively for
16 the Workforce Housing Strategic Plan. The Budget shall be a public document available from the
17 City and Habitat, and shall be available on the media platforms of both Parties.

18
19 Records with respect to the Workforce Housing Strategic Plan are to be maintained in such a
20 manner that the names of payees and the purpose of each payment are readily available to and
21 can be easily discerned by the public. To that end, Habitat shall provide the following reports to
22 the City:

23
24 Special Purpose Reports

25 Every other month beginning in April 2023, Habitat shall provide the City Manager with a written
26 update on encumbrances and expenditures to accomplish budgetary objectives. Upon the City's
27 receipt, the update shall be a public document and shall be available from the City and Habitat
28 on the media platforms of both Parties. The updates shall include, at a minimum:

29
30 A narrative report on the results achieved toward the goals indicated in the Detailed Plan.

31
32 A budget vs. actual report of Habitat's encumbrances and expenditures showing the budgeted
33 expenditures by line-item along with encumbrances and expenditures for the period, expenditures
34 for the year-to-date, and variances.

35
36 A detailed expense ledger report showing itemized expenditures with vendor name and check
37 number, grouped by line-item in a format approved by the Chief Financial Officer of the City.

38
39 Other metrics as may be agreed upon by the Parties based upon the approved Detailed Plan and
40 Budget.

41
42 General Purpose Reports

43 In addition to the special purpose reports described above, Habitat shall render certain general
44 purpose financial reports at the end of the City's fiscal year as follows:

45
46 No later than September 30, Habitat shall provide the City Manager with an accounting of the
47 encumbrances and expenditures from the City Funds and Workforce Housing Strategic Plan
48 results for the prior City fiscal year. After receipt by the City Manager, Habitat shall present the

1 shall commence as of March 1, 2023 and shall continue, unless terminated earlier, until August
2 31, 2024. The parties may enter into a new Agreement contingent on approval and appropriation
3 of funding by City Council, and approval by Habitat's Board of Directors. The City may terminate
4 this Agreement upon thirty (30) days written notice to Habitat and no additional payment of City
5 Funds shall be required after the date of the notice of termination. If this Agreement is terminated,
6 Habitat shall provide an accounting of encumbrances and expenditures through the date of
7 termination. If it is later determined that the City Funds disbursed hereunder were not
8 encumbered or spent in compliance with this Agreement, Habitat shall, upon the City's demand,
9 repay all or such portion of the City Funds received hereunder as the City may reasonably
10 determine not to have been spent appropriately.

11
12 **5. ACCOUNTING, REPORTING AND TRANSPARENCY REQUIREMENTS.** The City Funds
13 shall be accounted for in a separate fund according to Generally Accepted Accounting Principles
14 for governmental and non-profit reporting entities. The City Funds may not be commingled with
15 any other funds of Habitat except for any other grants, donations, gifts, etc., used exclusively for
16 the Workforce Housing Strategic Plan. The Budget shall be a public document available from the
17 City and Habitat, and shall be available on the media platforms of both Parties.

18
19 Records with respect to the Workforce Housing Strategic Plan are to be maintained in such a
20 manner that the names of payees and the purpose of each payment are readily available to and
21 can be easily discerned by the public. To that end, Habitat shall provide the following reports to
22 the City:

23
24 Special Purpose Reports

25 Every other month beginning in April 2023, Habitat shall provide the City Manager with a written
26 update on encumbrances and expenditures to accomplish budgetary objectives. Upon the City's
27 receipt, the update shall be a public document and shall be available from the City and Habitat
28 on the media platforms of both Parties. The updates shall include, at a minimum:

29
30 A narrative report on the results achieved toward the goals indicated in the Detailed Plan.

31
32 A budget vs. actual report of Habitat's encumbrances and expenditures showing the budgeted
33 expenditures by line-item along with encumbrances and expenditures for the period, expenditures
34 for the year-to-date, and variances.

35
36 A detailed expense ledger report showing itemized expenditures with vendor name and check
37 number, grouped by line-item in a format approved by the Chief Financial Officer of the City.

38
39 Other metrics as may be agreed upon by the Parties based upon the approved Detailed Plan and
40 Budget.

41
42 General Purpose Reports

43 In addition to the special purpose reports described above, Habitat shall render certain general
44 purpose financial reports at the end of the City's fiscal year as follows:

45
46 No later than September 30, Habitat shall provide the City Manager with an accounting of the
47 encumbrances and expenditures from the City Funds and Workforce Housing Strategic Plan
48 results for the prior City fiscal year. After receipt by the City Manager, Habitat shall present the

1 accounting to City Council in public session. Upon the City's receipt of the report, the presentation
2 of the accounting shall be a public document available from the City and Habitat, and shall be
3 available on the media platforms of both Parties.
4

5 An annual independent audit performed according to Generally Accepted Government Auditing
6 Standards shall be performed on Habitat's use of the City Funds, and the results shall be provided
7 to the City by January 31 and thereafter made available on the media platforms of both Parties.
8 The report, which shall include the auditor's opinion letter, may be incorporated into Habitat's
9 Comprehensive Annual Financial Report, provided that it presents, by fund type, a full set of
10 financial statements for the Workforce Housing Funds consisting of a Balance Sheet, and a
11 Statement of Revenues, Expenditures, and Changes in Fund Balances.
12

13 In addition to the audits and financial reviews conducted by Habitat, the City may at any point
14 inspect, or cause to be inspected, any or all of the records pertaining to the City Funds. Habitat
15 shall cooperate in the inspections and any ensuing reports related to such inspections.
16

17 Habitat shall allow City representatives, including but not limited to public accountants, access to
18 such financial records at the location where Habitat's records are customarily maintained. The
19 City shall be entitled to access Habitat's financial records after forty-eight (48) hour written notice
20 to Habitat of the City's intent to review such records.
21

22 **6. CERTIFICATE OF INSURANCE.** Habitat shall provide a Certificate of Insurance that satisfies
23 the City's insurance requirements as provided in Attachment C ("City of Myrtle Beach Insurance
24 Requirements").
25

26 **7. INDEMNIFICATION AND HOLD HARMLESS.** Habitat agrees to defend and indemnify the
27 City, its officials, employees, agents and volunteers and hold them harmless from and against
28 any and all causes of action, claims, and demands which may arise out of the course of the
29 disbursement and use of the City Funds and/or in connection with Habitat's management and
30 oversight of the City's Workforce Housing Strategic Plan, to include reasonable attorney's fees
31 and costs.
32

33 **8. STATUS OF EMPLOYEES AND CONTRACTORS.** Habitat acknowledges that any and all
34 personnel which it hires or engages to perform the services hereunder shall be deemed
35 employees and/or contractors solely of Habitat, and shall not be deemed in any manner to
36 constitute employees, agents, contractors or representatives of the City. In addition, the City
37 shall not be liable for any act or omission of such employees and/or contractors.
38

39 **9. JOINTLY DRAFTED.** The City and Habitat agree that all parties participated in negotiating
40 and drafting this Agreement and that no rule of construction shall apply to this Agreement which
41 construes any language, whether ambiguous, unclear or otherwise, in favor of, or against any
42 party by reason of that party's role in drafting this Agreement.
43

44 **10. SEVERABILITY.** Should any portion of this Agreement be declared to be determined by a
45 court or agency of competent jurisdiction to be illegal, invalid or unenforceable, then the remaining
46 parts, terms, or provisions shall not be affected thereby and said illegal, invalid, or unenforceable
47 part, term, or provision shall be deemed to be fully severed from this Agreement, and said
48 decision shall not affect the validity of the remaining portions hereof.

1 **11. APPLICABLE LAW AND VENUE.** This Agreement shall interpreted, governed, and
2 enforced in accordance with the laws of the State of South Carolina and/or any applicable federal
3 laws and any actions between the parties relating to this Agreement shall be brought in the Horry
4 County Court of Common Pleas or, if jurisdiction exists, in the United States District Court for the
5 District of South Carolina, Florence Division.
6

7 **12. CAPTIONS.** The section captions and/or headings in this Agreement are for convenience
8 and reference purposes only and shall not affect in any way the meaning or interpretation of this
9 Agreement.
10

11 **13. AMENDMENTS/MODIFICATIONS.** This Agreement may be amended, modified and/or
12 supplemented, but only by a written instrument signed by all of the parties hereto expressly stating
13 that such instrument is intended to amend, modify or supplement this Agreement.
14

15 **14. COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall
16 be deemed an original, but all which together shall constitute one and the same instrument.
17

18 **15. NOTICES.** Notices given pursuant to this Agreement shall be in writing and addressed as
19 follows:

20 To the City:

21 City of Myrtle Beach
22 Attn: City Manager
23 P.O. Box 2468
24 Myrtle Beach, SC 29578
25

26 To Habitat:

27 Habitat for Humanity of Horry County, Inc.
28 Attn: Executive Director
29 165 Co-Op Road
30 Myrtle Beach, SC 29588
31

32 IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their
33 proper, duly authorized corporate officers, all as of the day and year first above set forth.
34

35 CITY OF MYRTLE BEACH:

36
37 By: _____
38 Jonathan "Fox" Simons, Jr., City Manager
39

40 Date: _____
41

42 HABITAT FOR HUMANITY OF HORRY COUNTY, INC.:

43
44 By: _____
45

46
47 Date: _____

Attachment A

Scope of Services to be Performed by Habitat - Workforce Housing Strategic Plan

- Task 1 – Implement Local Housing Trust Fund
 - **Note: Fees and services associated with establishing the legal and operational structure for the local housing trust fund are not included in the Agreement and shall not be paid by Habitat. Funding commitments are not included in the contract value and shall not be funded by Habitat.**

- Task 2 – Establish a density bonus for workforce housing

- Task 3 – Create a Community Land Trust and a Land Bank.
 - **Note: Fees and services associated with establishing the legal and operational structure for the Community Land Trust and/or Land Bank are not included in the Agreement and shall not be paid by Habitat.**

- Task 4 – Partner on a home linking/home sharing program
 - **Note: Fees and services associated with building the software program (up to \$20,000) are included in the Agreement and shall be paid by Habitat.**

1 **Attachment B**

2
3 **Sources and Uses of Funds - Workforce Housing Strategic Plan**

4
5 **Sources of Funds Made Available to Habitat:** The source of the City Funds shall be allocations
6 from the City's Workforce Housing Fund, as appropriated and made available by the Myrtle Beach
7 City Council, plus any other funds as directed by City Council.

8
9 **Uses of Funds by Habitat:**

10
11 From March 1, 2023 through August 31, 2024:

12
13 Salary & Benefits (retirement match, health, dental, vision, FICA) - \$237,003.00 (3 FTE)

14 Facilities / Utilities - \$13,306.50

15 Insurance - \$2,272.50

16 Marketing Materials - \$5,250.00

17 Overhead - \$41,025.00

18 Accounting / Audit - \$3,204.00

19
20 Total (during term of contract) - \$302,061.00.

1 **Attachment C**

2
3 **CITY OF MYRTLE BEACH INSURANCE REQUIREMENTS**

4
5 **COMPREHENSIVE GENERAL LIABILITY AND PROPERTY DAMAGE**

6
7 Habitat shall purchase and thereafter maintain for the term of this Agreement, and any
8 subsequent extensions hereto, comprehensive general liability insurance to protect Habitat from
9 claims for bodily injury and/or property damage which may result from its performance of this
10 Agreement. The policy shall provide a combined single limit of liability of at least \$1,000,000.00
11 per occurrence for bodily injury and property damage with an aggregate limit of not less than
12 \$1,000,000.00.

13
14 **AUTOMOBILE LIABILITY**

15
16 Habitat shall purchase and thereafter maintain for the term of this Agreement and any subsequent
17 extensions hereto, comprehensive automobile liability insurance to protect Habitat from claims
18 for bodily injury and property damage which may arise from Habitat's use of motor vehicles in the
19 performance of this Agreement, whether owned or non-owned. The policy shall provide for a
20 combined single limit of at least \$1,000,000.00 per occurrence for bodily injury and property
21 damage.

22
23 **WORKERS' COMPENSATION INSURANCE**

24
25 Prior to beginning the work, Habitat shall obtain workers' compensation insurance coverage for
26 all persons which may be employed directly or indirectly in the performance of this Agreement,
27 and covering Habitat's statutory obligation under the laws of the State of South Carolina. The
28 policy must provide Employers Liability coverage in the amount of \$500,000.00 each accident;
29 \$500,000.00 bodily injury by disease each employee, and \$500,000.00 bodily injury by disease
30 policy limit and shall be maintained in full force and effect during the term of this Agreement and
31 any subsequent extensions hereto.

32
33 **EXCESS LIABILITY POLICY**

34
35 At the option of Habitat, the limits of the primary general liability, automobile liability and
36 employer's liability policies may be less than stipulated herein, so long as the additional coverage
37 amounts necessary to meet the limits required by this Agreement are provided by an excess
38 insurance policy. This form of coverage must be approved by the City and will only be acceptable
39 when both the primary and excess policies include the coverages and endorsements required
40 herein.

41
42 **POLICY ENDORSEMENTS**

43
44 The following requirements shall apply to the policy(ies) indicated below:

- 45
46 **A. Comprehensive General Liability and Automobile Liability**

1
2 These policies shall be endorsed to provide that the City of Myrtle Beach, its officials, agents,
3 volunteers and employees are additional named insureds and will be provided thirty (30) days
4 written notice by registered mail of non-renewal, exhaustion of aggregate limit, modification of
5 coverage or cancellation for any reason. These policies shall further provide that failure of the
6 insurance company to provide the required notice shall cause the coverage to continue in force
7 for the benefit of the City, its officials, agents, volunteers and employees until proper notification,
8 as required herein, is provided, the provisions of the policy or any Certificate of Insurance to the
9 contrary notwithstanding.

10 11 B. Workers' Compensation

12
13 This policy shall provide that the City of Myrtle Beach will be provided thirty (30) days written
14 notice via certified mail, return receipt required, in the event of coverage cancellation.

15 16 NOTIFICATION OF INSURANCE COMPANIES

17
18 It is the responsibility of Habitat to notify all insurance companies to familiarize themselves with
19 all the terms and conditions of this Agreement. The insurance companies shall waive their right
20 of notification by the City of any change or modification of this contract, or of decreased or
21 increased work, or of the cancellation of this Agreement or of any other acts by the City or its
22 authorized employees or agents under the terms of this Agreement. The waiver by the insurance
23 companies shall in no way relieve them of their obligations under this Agreement.

24 25 CERTIFICATES OF INSURANCE

26
27 Habitat shall file submit to the City Manager a Certificate of Insurance evidencing the above
28 coverages and, with respect to the general liability and automobile liability policies, naming the
29 City of Myrtle Beach, its officials, agents, volunteers and employees as an additional named
30 insured which shall be approved by the City prior to the inception of any work. Renewal
31 certificates shall be sent to the City thirty (30) days prior to any expiration date.

32 33 INSURER LICENSING AND RATING

34
35 All insurance companies providing coverage to Habitat and the City, shall be licensed to do
36 business in the State of South Carolina and have an A.M. Best rating of "A-" or better.

37 38 INSURANCE COVERAGE ADJUSTMENTS

39
40 In response to changing circumstance of loss exposures, the City reserves the right to modify the
41 insurance coverage, limits of liability, policy endorsements and policy terms required in this
42 Agreement. The City will provide written notice to Habitat outlining such changes and allow
43 Habitat a reasonable period of time in which to comply with the new requirements. However, in
44 no event shall the compliance period be longer than thirty (30) days.

45 46 COVERAGE CANCELLATION OR UNSATISFACTORY COVERAGE

1
2 If at any time any of the foregoing policies shall be or become unsatisfactory to the City, as to
3 form or substance, or if a company issuing any such policy shall be or become unsatisfactory to
4 the City, Habitat shall, upon notice to that effect from the City, promptly obtain a new policy and
5 submit the same for approval to the City. Upon failure of Habitat to furnish, deliver and maintain
6 the insurance coverage's required herein, this Agreement, at the sole discretion of the City, may
7 be forthwith declared suspended, discontinued or terminated. Failure of Habitat to take out and/or
8 maintain any required insurance shall not relieve Habitat from any liability under this Agreement,
9 nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations
10 of Habitat concerning indemnifying the City.