

CITY OF MYRTLE BEACH  
COUNTY OF HORRY  
STATE OF SOUTH CAROLINA

A MOTION TO AUTHORIZE THE CITY  
MANAGER TO ENTER INTO AN AGREEMENT  
RELATING TO THE EXPENDITURE OF THE  
TOURISM DEVELOPMENT FEE REVENUES  
WITH THE MYRTLE BEACH AREA CHAMBER  
OF COMMERCE, TO REQUIRE THAT THE  
FUNDS ARE PROPERLY ACCOUNTED FOR,  
AND THAT THE RECORD OF THE  
EXPENDITURES FROM THAT FUND ARE  
MADE PUBLICLY AVAILABLE.

WHEREAS, the entities above named deem it to be in the public interest and in  
furtherance of their stated goals of accountability and transparency, and to their  
mutual benefit to reach an agreement; and

WHEREAS, this Agreement constitutes the mutual promises and obligations of the  
Parties to accomplish this purpose.

THEREFORE, BE IT ORDAINED THAT the following agreement is approved by City Council,  
to be signed by the City Manager.

\_\_\_\_\_  
Brenda Bethune, Mayor

Attest: Joan Grove, City Clerk

First reading: \_\_\_\_\_  
Second reading: \_\_\_\_\_



1  
2 AGREEMENT BETWEEN  
3 THE MYRTLE BEACH AREA CHAMBER OF COMMERCE  
4 And  
5 CITY OF MYRTLE BEACH  
6

7 THIS AGREEMENT ("Agreement"), is made and entered into this [REDACTED]  
8 day of [REDACTED], 2018, by and between the duly formed corporation of The Myrtle  
9 Beach Area Chamber of Commerce, of North Oak St, Myrtle Beach, South Carolina  
10 hereinafter referred to as the "COC", and the City of Myrtle Beach, of 937 Broadway  
11 St. Myrtle Beach located in Horry County, South Carolina, hereinafter referred to as  
12 the "City", (collectively, the "Parties").

13 WITNESSETH:

14 WHEREAS, in furtherance of accountability and transparency, State law (Sec. 5-7-240)<sup>1</sup>  
15 requires the Council provide for an annual audit to be conducted by an independent  
16 certified public accountant or accounting firm.

17  
18 WHEREAS, based upon an open bidding process, a selected independent public  
19 accounting firm conducts the audit of the City's books annually according to standards  
20 established by the American Institute of Certified Public Accountants (AICPA) <sup>2</sup> and the  
21 Governmental Accounting Standards Board (GASB)<sup>3</sup>, which is the Governmental  
22 counterpart of the Financial Accounting Standards Board (FASB)<sup>4</sup>.

23  
24 WHEREAS, each year, the selected accounting firm conducting the audit expresses its  
25 opinion, which accompanies the City's comprehensive annual financial report (CAFR)<sup>5</sup>.

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<sup>1</sup> **SECTION 5-7-240.** Council required to provide for independent annual audit of financial records and transactions of municipality and agencies funded by municipal funds.

The council shall provide for an independent annual audit of all financial records and transactions of the municipality and any agency funded in whole by municipal funds and may provide for more frequent audits as it deems necessary. Special audits may be provided for any agency receiving municipal funds as the municipality deems necessary. Such audits shall be made by a certified public accountant or public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the municipal government or any of its officers. The council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding four years, provided, that the designation for any particular fiscal year shall be made no later than thirty days after the beginning of such fiscal year. The report of the audit shall be made available for public inspection. The council may in its discretion accept independent audits of municipal agencies and departments and include such audits in its general report of the audit of the municipality.

HISTORY: 1962 Code Section 47-53; 1975 (59) 692; 1977 Act No. 109.

<sup>2</sup> <https://www.aicpa.org/about/missionandhistory.html>

<sup>3</sup> <http://gasb.org/jsp/GASB/Page/GASBLandingPage&cid=1175804799024>

<sup>4</sup> <http://www.fasb.org/jsp/FASB/Page/LandingPage&cid=1175805317407>

<sup>5</sup> A **Comprehensive Annual Financial Report** (CAFR) is a set of U.S. government financial statements comprising the financial report of a state, municipal or other governmental entity that complies with the accounting requirements promulgated by the Governmental Accounting Standards Board (GASB). GASB provides standards for the content of a CAFR in its annually updated publication *Codification of Governmental Accounting and Financial Reporting Standards*.<sup>[1]</sup> The U.S. Federal



1 WHEREAS, the most desirable result is for the auditors to express an opinion that the  
2 entity's financial statements present its financial condition and financial activity for  
3 the year in a manner that is fair in all material respects—an "unqualified opinion."<sup>6</sup> The  
4 City of Myrtle Beach has never received less than an unqualified opinion.

5  
6 WHEREAS, the Myrtle Beach Area Chamber of Commerce undergoes a similar annual  
7 independent audit according to standards in force for not-for-profit agencies<sup>7</sup>.

8  
9 WERHEAS, the Independent Auditors are themselves audited.

10  
11 WHEREAS, AICPA peer review program standards require the public accounting firms  
12 that conduct these audits to undergo peer review, according to AICPA standards, at  
13 least once every three years. All of this is to ensure that the Independent Auditors are  
14 qualified, thorough and truly independent.

15  
16 WHEREAS, the City has earned the Certificate of Achievement for Excellence in  
17 Financial Reporting, awarded by the Government Finance Officers Association of the  
18 United States and Canada (GFOA)<sup>8</sup> for thirty (30) consecutive years.

19  
20 WHEREAS, "The Certificate of Achievement is the highest form of recognition in the  
21 area of governmental accounting and financial reporting, and its attainment represents  
22 a significant accomplishment by a government and its management," according to news  
23 release from the GFOA.

24  
25 WHEREAS, according to GFOA, the certificate signifies that the City of Myrtle Beach's  
26 CAFR "has been judged by an impartial panel to meet the high standards of the  
27 program, which includes demonstrating a constructive 'spirit of full disclosure' to  
28 clearly communicate its financial story and motivate potential users and user groups to  
29 read the CAFR."

30  
31 WHEREAS, each year, a public accounting firm audits the city's books according to  
32 standards established by the American Institute of Certified Public Accountants (AICPA)  
33 and the Governmental Accounting Standards Board (GASB). The accounting firm then  
34 expresses its opinion, which accompanies the city's Comprehensive Annual Financial  
35 Report, or CAFR. In Myrtle Beach's case, the auditors consistently have said that our

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Government adheres to standards determined by the Federal Accounting Standards Advisory Board (FASAB). A CAFR is compiled by a state, municipal or other governmental accounting staff and audited by an external American Institute of Certified Public Accountants (AICPA) certified accounting firm utilizing GASB requirements. It is composed of three sections: Introductory, Financial and Statistical. It combines the financial information of fund accounting and Enterprise Authorities accounting.

<sup>6</sup> An **unqualified opinion** is an independent auditor's judgment that a company's financial records and statements are fairly and appropriately presented, and in accordance with Generally Accepted Accounting Principles (GAAP)

<sup>7</sup> <http://www.myrtlebeachareachamber.com/about/docs/12-31-17auditedfinancialstatements.pdf>

<sup>8</sup> <http://gfoa.org/about-gfoa>



1 financial statements present the city's financial condition and activity in a manner that  
2 is fair in all material respects. This is known as an "unqualified opinion."

3  
4 WHEREAS, to receive the Certificate of Achievement, the city's CAFR has been judged  
5 by an impartial panel to meet the GFOA's high standards and "spirit of full  
6 disclosure." Myrtle Beach has now received the award for three decades<sup>9</sup>.

7  
8 WHEREAS, having established that the City is a responsible, accountable and  
9 transparent body politic with all the rights and privileges of such, including the power  
10 to contract as a necessary and incidental power to carry out its functions and duties,  
11 and in conformance with all state laws; and

12 WHEREAS, state law<sup>10</sup> provided that a municipality may impose in the municipality a  
13 fee not to exceed one percent for not more than ten years for the purposes provided in  
14 Section 4-10-970, which is:

- 15  
16 1. Owner Occupied property tax relief  
17 2. Capital projects benefiting tourism  
18 3. Tourism advertisement and promotion directed at non-South Carolina residents  
19 by a Designation Marketing Organization. .

20 WHEREAS, the fee allowed by state law is an amount not to exceed one percent of the  
21 gross proceeds of sales or sales price of all amounts subject to the sales and use tax  
22 imposed pursuant to Chapter 36, Title 12.

23  
24 WHEREAS, The fee imposed pursuant to this article must be administered and collected  
25 by the Department of Revenue in the same manner that sales and use taxes are  
26 collected.

27 WHEREAS, the COC is a non-profit destination marketing organization that represents  
28 a broad cross-section of tourism interests in Horry County.

29 WHEREAS, in conformance with state law, the COC has certified to the City that:

- 30  
31 (1) its promotional and advertising programs are based on research based outcomes;  
32  
33 (2) the organization has a proven record of success in creating new and repeat  
34 visitation to the county;

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<sup>9</sup> [http://www.cityofmyrtlebeach.com/departments/financial\\_management\\_and\\_reporting.php](http://www.cityofmyrtlebeach.com/departments/financial_management_and_reporting.php)

<sup>10</sup> Title 2 - General Assembly, CHAPTER 10, Local Sales and Use Tax.ARTICLE 9, Local Option Tourism Development Fee, Section 4-10-910, et seq.



1  
2 (3) it has sufficient resources to create, plan, implement, and measure the marketing  
3 program generated by the fee revenues;

4  
5 (4) it will use the funds only for the purposes provided pursuant to state law.  
6

7 WHEREAS, the COC has been designated by the City to receive the revenues and  
8 interest of the funds collected by the Department of Revenue, and to conduct the  
9 promotional activities authorized by state law, in conformance with state law.

10 WHEREAS, the COC provides a report to the City quarterly that includes the  
11 identification of revenues received from the Local Option Tourism Development Fee,  
12 as authorized by state law, during the previous quarter, as well as expenditures made  
13 from those funds during the previous quarter, in conformance with state law.

14 WHEREAS, the COC posts the report on its website in conformance with state law.

15 NOW THEREFORE, in consideration of the conformance to best practices of financial  
16 reporting, and in continuing conformance with state law, and the mutual covenants  
17 contained herein, and other good and valuable consideration, the receipt and  
18 sufficiency of which are hereby acknowledged, the Parties agree as follows:

19 The COC will publish their Q4/2017 Accountability Report on their website, as updated.  
20

21 The COC will include the Chief Financial Officer of the City in all Annual Audit Reports  
22 with their Board of Directors.  
23

24 The Independent Auditors of the Chamber's books will publicly present to Council the  
25 same report, in order for the Council to question and inquire, and the public to hear  
26 the Independent Auditors Report.  
27

28 A. All notices, invoices and other correspondence will be officially delivered as  
29 follows:

30 1. As to City:

31 City Manager  
32 City of Myrtle Beach  
33 937 Broadway St.  
34 P.O. Box 2468  
35 Myrtle Beach, S.C. 29577  
36

37 2. As to Company:

38 Myrtle Beach Chamber of Commerce



- 1  
2  
3  
4 (b) The Parties hereto agree to conform to any and all applicable State, and  
5 Federal laws, rules, and regulations governing agreements or contracts  
6 relative to the services covered under this Agreement.
- 7 (c) The Parties hereto and their agents shall not discriminate on the basis of  
8 race, color, national origin or sex in the performance of this Agreement or  
9 the work provided for herein.
- 10 (d) COC, or its authorized agent(s), shall agree to hold consultations with the  
11 Department or the City as may be reasonably necessary with regard to the  
12 execution of supplements to this Agreement during the term for the purpose  
13 of resolving any issues or items of concern that may have been  
14 unintentionally omitted from this Agreement or arise from unforeseen  
15 events or conditions. Such supplemental agreements shall be subject to the  
16 approval and proper execution of the Parties hereto. No modifications or  
17 amendments to this Agreement shall be effective or binding upon either  
18 party unless both Parties agree in writing to any such changes.
- 19 (e) Any and all reviews and approvals required of the Parties herein shall not be  
20 unreasonably denied, delayed, conditioned or withheld.
- 21 (f) This Agreement shall continue the term of the COC being designated the  
22 Designated Marketing \_\_\_\_\_ (DMO) from the date first noted above  
23 unless terminated by one of the Parties as provided herein. In the event of  
24 a breach of this Agreement's provisions, either Party may send written  
25 notice, return receipt requested, to the other specifying the nature of the  
26 breach and the expected cure. In the event of such notice, the breaching  
27 Party shall cure the breach within thirty (30) days of receipt of the notice.  
28 If the breach is timely cured, the Agreement shall continue. If this breach is  
29 not cured within thirty (30) days of receipt of the notice, then this  
30 Agreement is deemed terminated, and either party may take such action as  
31 deemed prudent in protection of its interest in the Circuit Court of Horry  
32 County. This Agreement is to be interpreted under the laws of the State of  
33 South Carolina.
- 34 (g) This Agreement may be executed in one or more counterparts, each of which  
35 will be deemed an original, but all of which together will constitute one in  
36 the same instrument.



1 IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on  
2 the dates indicated. The signatures below affirm that the signatories have authority  
3 to bind their corporations to fulfil the promises made herein.  
4

5  
6 Signed, sealed and executed for the Company:

7  
8 Myrtle Beach Area Chamber of Commerce  
9

10 Witness:

11  
12 \_\_\_\_\_

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

Title: \_\_\_\_\_  
13  
14  
15  
16  
17

18 Signed, sealed and executed for the City:

19 CITY OF MYRTLE BEACH  
20

21 Witness:

22  
23 \_\_\_\_\_

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

Title: \_\_\_\_\_  
24  
25  
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