

**SETTLEMENT AGREEMENT EXHIBIT C**

STATE OF SOUTH CAROLINA COUNTY OF HORRY	)	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT
	)	
City of Myrtle Beach,	)	CIVIL ACTION NO. 2019-CP-26-01732
	)	
For Itself and a Class of Similarly Situated Plaintiffs,	)	
	)	<b>NOTICE OF PROPOSED CLASS</b>
Plaintiff,	)	<b>ACTION SETTLEMENT AND HEARING</b>
	)	<b>ON PROPOSED SETTLEMENT</b>
vs.	)	
	)	
Horry County,	)	
	)	
Defendant.	)	
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**THIS NOTICE AFFECTS YOUR LEGAL RIGHTS.  
PLEASE READ IT CAREFULLY.**

This Notice provides a brief description of the benefits of the Settlement Agreement, including the following topics:

1. Description of the Litigation
2. History of the Litigation
3. No Opinion Expressed by the Court as to the Merits
4. Reasons for Settlement
5. The Class
6. The Settlement
7. Attorneys' Fees and Costs
8. What to Do to Obtain the Benefits of the Settlement
9. Out-Out Requests
10. Objections
11. Hearing on the Settlement
12. Release
13. Disputes
14. Change of Address
15. Further Information

You may review the full contents of the Settlement Agreement on file with the Clerk of Court in the Horry County Court of Common Pleas.

If you are not satisfied with the settlement, you may object to the settlement. Details on how to object are provided below.

If you have questions regarding the settlement, you may contact Class Counsel by calling toll free 1-877-483-7754 or by writing to Class Counsel at the following address:

*John Hoefler  
Willoughby & Hoefler, P.A.  
P.O. Box 8416  
Columbia, South Carolina 29202*

1. Description of the Litigation

Plaintiff City of Myrtle Beach (“City”) brought this action on behalf of itself and all who have paid Defendant Horry County’s (“County”) 1.5% uniform service charge imposed on the sale of accommodations, prepared food and beverage, and admissions to amusements, and the 2.5% uniform service charge on rental cars, within Horry County municipalities on or after January 1, 2017 (“Hospitality Fee”). The City claims that the County was required to obtain the consent of the municipalities to continue imposing the Hospitality Fee within the municipalities’ corporate limits after this date, the County never obtained this consent, and as a result the County’s continued imposition and collection of the Hospitality Fee was illegal. The County denies the allegations made in this lawsuit, specifically including but not limited to the allegation that municipal consent was required to impose the Hospitality Fee, and maintains that it did nothing wrong or unlawful.

2. History of the Litigation

This case has been litigated in the Horry County, South Carolina, Court of Common Pleas since the City filed its complaint on March 20, 2019. On June 21, 2019, and July 10, 2019, the Court issued orders preventing the County from continuing to collect the Hospitality Fee within the municipalities while this case is pending. The County appealed the Court’s orders, and the South Carolina Supreme Court affirmed those orders. The County and the City have now settled the case on the terms contained in this notice and the formal settlement agreement, a copy of which can be viewed or obtained as described in Section 16, below.

### 3. No Opinion Expressed by the Court as to the Merits

In ordering that this Notice be sent to you, the Court expresses no opinion as to the validity or truth of any of the City's legal or factual allegations or of any of the County's defenses.

### 4. Reasons for Settlement

The settlement being submitted to the Court for approval is between the City and the Class on the one hand and the County on the other hand and includes a release and dismissal with prejudice of the claims of the City and the Class against the County relating to the Hospitality Fee.

The City and Class Counsel view this settlement as advantageous to the Class. In addition, the Class faces risks in continuing litigation, with respect to both proof of liability and proof of damages. The County, while denying that it is liable to anyone and denying that it has committed any wrongdoing, wishes to avoid further lengthy, costly, and time-consuming litigation, to obtain total and final settlement of the City's claims and the Class Claims, and to extinguish any type of present or future liability of the County with respect to claims which were or could have been asserted on behalf of the City or the Class in the Complaint.

### 5. The Class

The "Class" consists of all individuals, businesses, sole proprietorships, corporations, companies, associations, firms, partnerships, societies, joint stock companies, political subdivisions, United States Government agencies, counties, municipalities, state agencies, and instrumentalities of the State of South Carolina who have paid the Hospitality Fee on or after January 1, 2017, and/or are subject to paying the Hospitality Fee on a going forward basis, for purchases of covered accommodations, food, beverage, admissions to amusements, and rental cars within the municipalities situated in Horry County. All such persons will be deemed "Class Members."

### 6. The Settlement

The following is an outline of the terms of the Settlement Agreement. The definitions of certain words and phrases used herein are set forth in the Settlement Agreement, as are the

complete terms of the agreement. The Settlement Agreement is available as described in the last paragraph of this Notice.

6.1. Benefits to Class Members. Conditioned on Court approval, subject to the provisions of this Settlement Agreement, and in consideration of a full and final release of Plaintiffs' Claims and Class Claims against the County, the following benefits will inure to Class Members:

**6.1.1 Establishment of a Common Fund**

- The County will pay \$19,000,000.00 to the City to establish a Common Fund. The Common Fund will be used to reimburse Class Members who make verified claims of payment of the Hospitality Fee on or after January 1, 2017, as well as any recoverable expenses and fees identified in Section 7, below.
- The remaining balance of the Common Fund after payment of claims and recoverable fees and expenses will be paid as follows:
  - One half (50%) will be paid proportionally based on the level of relative Fiscal Year 2019 Hospitality Fee collections to the City and the Town of Atlantic Beach, Town of Aynor, City of Conway, City of Loris, City of North Myrtle Beach, and Town of Surfside Beach (“Participating Municipalities”) for use on tourism-related projects identified in S.C. Code Ann. §§ 6-1-530 and 6-1-730.
  - One quarter (25%) will be paid to the South Carolina Bar Foundation, a charitable organization, for use on access to justice projects.
  - One quarter (25%) will be held in escrow for three years for the payment of any claims, costs, and Class Counsel and Class Representative litigation expenses in connection with such claims. After that three-year period, any remaining funds held in escrow will be paid proportionally based on the level of relative Fiscal Year 2019 Hospitality Fee collections

to the City and the Participating Municipalities for use on tourism-related projects identified in S.C. Code Ann. §§ 6-1-530 and 6-1-730.

**6.1.2 Future Hospitality Fee Revenues for Use on Local Projects.**

- The City and Participating Municipalities will consent to the County's continued imposition of the Hospitality Fee within the City and Participating Municipalities' corporate limits. In exchange for this consent, all Hospitality Fee collections within the municipal limits will be returned to the City and Participating Municipalities, less a 1.0% administrative fee retained by the County. The Participating Municipalities may use these funds for the purposes set forth under S.C. Code Ann. §§ 6-1-530 and 6-1-730.

**6.1.3 Repeal of Increased Local Hospitality and Accommodations Fees and Taxes**

- The City and certain Participating Municipalities passed ordinances before and during this litigation that increased the amount of hospitality and accommodations fees and taxes they imposed and collected within their corporate limits. As a result of the agreement in Section 6.1.2 above, the City and these municipalities have agreed to repeal these increases in order to keep the cumulative fee paid by the Class Members and others the same as before this litigation began while also ensuring that future fee collections are used within the Participating Municipalities for the benefit of Class Members.

6.3 Release. In exchange for these benefits, under the Settlement Agreement all Class Members will give a General Release in favor of the County, and no further action will be pursued by any person in the Class related to the subject matter of this case. The County also will release all claims and counterclaims related to the Hospitality Fee against the City and all Class Members.

6.4 Final Order and Dismissal. The City and the County will petition the Court for a Final Order, dismissing this Action as to the Class Members with prejudice, and any person in the Class will be bound by the settlement and the dismissal.

7. Attorneys' Fees, Costs, and Class Member Fee

No portion of the Common Fund will be used to pay attorneys' fees or litigation costs and expenses, except for the payment of providing notice to the Class, the payment of a class representative fee to the City in the amount of 0.25% of the Common Fund primarily to cover expenses of administering the class, and the City's and Class Counsel's fees and expenses incurred in any claims involving the escrow funds under Section 6.1.1 above.

8. What to Do to Obtain the Benefits of the Settlement

The Settlement provides two forms of relief. One is described in Sections 6.1.2 and 6.1.3 regarding the future collection of the Hospitality Fee and use of those funds. You do not have to do anything to obtain this benefit. The second, described in Section 6.1.1, is receiving reimbursement of the Hospitality Fee which Class Members paid on or after January 1, 2017. To obtain this reimbursement, Class Members must file a claim by completing the form attached to the Class Action Settlement Agreement as Exhibit A and submitting the form along with supporting documentation of the fee paid to the Settlement Administrator. The instructions for submitting the form are included in Class Action Settlement Agreement Exhibit A. The claim form must be postmarked no later than May 15, 2021. The Settlement Administrator will approve or deny your claim by June 15, 2021. Claims made before the Court gives final approval to this settlement will be processed after such approval is given. The Settlement Administrator will provide full reimbursement of all verifiable qualifying claims on a "first in, first out" basis.

9. Opt-Out Requests

You do not have the right to opt out from the relief described in Sections 6.1.2 and 6.1.3. You do have a right to opt out from the Common Fund and pursue your own claim for reimbursement. To opt out from the Common Fund and any release associated with claims for reimbursement only, complete and return the form attached to the Class Action Settlement Agreement as Exhibit E. The instructions for opting out are included in Class Action Settlement

Agreement Exhibit E. This form must be postmarked no later than April 15, 2021. You also have the right to object to any terms of this settlement under Section 10 of this Notice.

#### 10. Objections

If you are a member of the Class, you have the right to object in writing to the proposed settlement provided such objections are made in writing using the form attached to the Class Action Settlement Agreement as Exhibit D and timely filed with the Court. You must file your objections in writing by mailing or personally delivering the original signed and completed copy of Class Action Settlement Agreement Exhibit D to the Horry County Clerk of Court, and mailing a copy to counsel for the City and the County, by April 15, 2021. The address to which you must send any objection, and any additional instructions, are included in Class Action Settlement Agreement Exhibit D.

You must also appear at the hearing noticed in Section 11 below, either in person or through an attorney, to assert any such objections. Except for good cause shown, an objector who has not timely filed written objections will not be allowed to be heard at the hearing. Further, any person who fails to appear at the hearing may be deemed to have waived any such objections. To the extent the Court requires a virtual hearing due to the COVID-19 pandemic, an appearance by way of video conferencing or other technology approved by the Court may be allowed.

#### 11. Hearing on the Settlement

The Court will hold a what is called a “fairness hearing” to consider the fairness and adequacy of this proposed settlement, consider any properly-lodged objections, and determine whether to give final approval to the proposed settlement on **April 16, 2021, at 10:00 A.M.** Due to coronavirus restrictions, the hearing currently is scheduled to be conducted virtually using WebEx and not in-person. To attend the virtual hearing, please visit [www.sccourts.org](http://www.sccourts.org), select “Calendar” and then “Monthly View,” click the link for “Circuit” on April 16, 2021, and then click “Virtual Courtroom” under “Judge: Seals, William H” near the bottom of the page. If the Court approves the settlement, it will be binding on all Class Members. Visual instructions for accessing

the Virtual Courtroom, any changes to the hearing time or date, and any instructions for attending in-person, if permitted, we will be posted on the website listed in Section 16, below.

## 12. Release

The proposed settlement is intended to resolve and terminate all claims which have been or could have been raised by or on behalf of the City and members of the Class arising out of or in any way related to the City's claims or the Class claims. The proposed settlement, if finally approved by the Court, is intended to fully resolve and terminate all claims of any kind whatsoever that were or could have been brought by or on behalf of the City and/or members of the Class and their successors, heirs, and assigns against the County in the Action that relate to the Hospitality Fee or the City's claims. The proposed settlement will result in the release by the City and each member of the Class of all such claims, as more specifically provided in the Settlement Agreement. The claims against the County alleged in the Complaint will be dismissed with prejudice as to all Class Members and the City. The only exception to this Release is for Class Members who opt-out of the Common Fund payments provided for in Section 6.1.1 above. Those Class Members will retain the limited right to pursue their own individual claims for reimbursement, but this Release will be effective as to all other claims. The County will release all claims and counterclaims against the City and the Class members, as also more specifically provided in the Settlement Agreement. The County's counterclaims will be dismissed with prejudice.

## 13. Disputes

The City, in connection with Class Counsel, has established a Settlement Administration Office that will review and approve the payment of verified class claims. If you disagree with a decision made by the Settlement Administrator with respect to a claim you have made, you may file a dispute with the Settlement Administration Office using the form attached to the Class Action Settlement Agreement as Exhibit H. The Dispute must be postmarked within thirty (30) days of the Settlement Administration Office's initial determination of the claim.

If you disagree with the Settlement Administration Office's resolution of your dispute, you may file an appeal with a court-appointed Special Master, Karl Folkens, Esq., using the form attached to the Class Action Settlement Agreement as Exhibit I. Your appeal must be postmarked within thirty (30) days of the Settlement Administration Office's determination of your dispute.

The Special Master's decision on any appeal will be final and binding on all parties with no right of appeal.

The address to which you must submit any dispute or appeal, and any additional instructions, are included in Class Action Settlement Agreement Exhibits H and I.

14. Copies of Forms

To obtain copies of any form referenced in this Notice, please visit [www.horryhospitalityfeesettlement.com](http://www.horryhospitalityfeesettlement.com) or write to the following address:

*Hospitality Fee Settlement Administrator  
P.O. Box 2468  
Myrtle Beach, SC 29578*

15. Change of Address

If you change your address at any time after submitting a claim form, please send your name, telephone number, and your new address to the following address:

*Hospitality Fee Settlement Administrator  
P.O. Box 2468  
Myrtle Beach, SC 29578*

16. Further Information

The descriptions in this Notice of the Complaint and other pleadings, orders and settlement documents in this case are only summaries. The Settlement Agreement and all papers filed in the Action may be inspected at the Office of the Horry County Clerk of Court for the Court of Common Pleas, 1301 Second Avenue, Conway, South Carolina. You may also view these documents at [www.horryhospitalityfeesettlement.com](http://www.horryhospitalityfeesettlement.com). If you have any questions with respect to this Notice or the lawsuit generally, please call Class Counsel at 1-877-483-7754.

**PLEASE DO NOT CONTACT THE COURT  
OR THE CLERK'S OFFICE FOR INFORMATION.**

Date of Notice: \_\_\_\_\_, 2021.

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CLERK, COURT OF COMMON PLEAS  
FOR HORRY COUNTY