REQUEST FOR CITY COUNCIL CONSIDERATION

Meeting Date: October 21, 2024

Agenda Item: 6E	Prepared by: Chris Noury, City Attorney
Agenda Section: Unfinished Business: Ordinance. Second Reading	Date: October 17, 2024
Subject: An ordinance to approve an amendment to the Intergovernmental Agreement between North Myrtle Beach and Horry County regarding the Joint County and Industrial Park to include additional property in the Park	Division: Legal

Background:

In February of 2023, the City passed an ordinance to approve an Intergovernmental Agreement (IGA) between the City and Horry County which provided the City's consent to the creation of the Joint County Industrial and Business Park (the Park).

Sandy Davis, President of the Myrtle Beach Regional Economic Development organization, in conjunction with Horry County, has requested that the City consent to an amendment to the above referenced Intergovernmental Agreement to include additional property in the Park.

Attached to the issue paper is a rendering which depicts the land that will be added to the Park (in green) and the area that was previously designated as the boundary of the Park (in red).

Also attached to the ordinance is the Amendment to the IGA to add to the Park the property identified as PIN Numbers:

38900000243
36000000008
38903010001
A portion of 38900000002 which is south and east of Water Tower Road.

Recommended Action:

Approve or deny the proposed ordinance on second reading

Reviewed by Department Head	Reviewed by Acting City Manager	Reviewed by City Attorney

Council Action:

Motion By_____ 2nd By_____ To_____

STATE OF SOUTH CAROLINA)
) ORDINANCE NO. 24-43
CITY OF NORTH MYRTLE BEACH)

AN ORDINANCE

TO AUTHORIZE AND APPROVE AN AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY AND HORRY COUNTY RELATING TO THE JOINT COUNTY INDUSTRIAL AND BUSINESS PARK (PALMETTO COAST INDUSTRIAL PARK), SO AS TO, AMONG OTHER THINGS, PROVIDE THE CITY'S CONSENT TO THE INCLUSION OF ADDITIONAL PROPERTY IN THE PARK (EDGEWATER VENTURES, LLC)

Be it ordained by the Council of the City of North Myrtle Beach, South Carolina (the "City"):

SECTION 1. Findings and determinations; Purpose.

A. The Council finds and determines that:

1. Horry County, South Carolina ("Horry County") created, pursuant to Article VIII, Section 13(D) of the South Carolina Constitution and Sections 4-1-170, 4-1-172 and 4-1-175, Code of Laws of South Carolina 1976, as amended (the "MCP Law"), a multi-county park with Marion County, South Carolina ("Marion County") for certain parcels located within the boundaries of the City (the "Park"), the consent to which was provided by the City pursuant to that certain Intergovernmental Agreement – Joint Industrial and Business Park (Palmetto Coast Industrial Park) by and between the City and Horry County dated on or about January 24, 2023 (the "IGA");

2. To establish the Park pursuant to the MCP Law, Horry County previously entered into an agreement (the "Park Agreement") with Marion County;

3. Section 4-1-170(C) of the MCP Law requires the consent of the municipality for the inclusion of property in such a multi-county park when such property is geographically located in the municipality;

4. Section 3(A) of the Park Agreement authorizes the County to add property to the Park without the consent of Marion County if such property is geographically located in the County, provided that the County must provide a revised "Exhibit A" to Marion County with the additional property included.

B. It is the purpose of this ordinance to provide the City's consent to the inclusion in the Park of certain additional property relating to Edgewater Ventures, LLC, and approval to an Amendment to the IGA between the City and Horry County ("IGA Amendment") to memorialize, and set forth the conditions of, such City consent.

SECTION 2. Consent to Multi-County Park.

Pursuant to Section 4-1-170(C) of the MCP Law, the City consents, subject to the terms and conditions of the IGA, as amended by the IGA Amendment, to the inclusion in the Park of those parcels identified below by the parcel identification number (PIN) used by the Horry County Assessor's Office, the owner, and, if available, acreage:

1. PIN: 38900000243, property of PCIP 2 & 3 Partners LLC, 24.42 +/- acres (as of March 28, 2024)
2. PIN: 36000000008 and 38903010001, property of PCIP 1 Partners LLC, 19.73 +/- acres (as of March 28, 2024)
3. PIN: 38900000002, **[portion which is which is south and east of Water Tower Road (and contiguous to the three aforementioned parcels)]**, property of Henry Road West LLC, 63.40 +/- acres **[(to be updated more specifically upon any subdivision of the property)]** (as of March 28, 2024)

SECTION 3. Approval of Amendment to Intergovernmental Agreement.

The Acting City Manager is authorized, empowered and directed, in the name of and on behalf of the City, to execute, acknowledge, and deliver IGA Amendment by and between the City and Horry County relating to the Park. The Clerk to Council is authorized to attest the execution of the IGA Amendment by the City Manager. The form of the IGA Amendment is attached to this ordinance as Exhibit A and all terms, provisions and conditions of the IGA Amendment are incorporated into this ordinance as if the IGA Amendment were set out in this ordinance in its entirety. By enactment of this ordinance, City Council approves the IGA Amendment and all of its terms, provisions and conditions. The IGA Amendment is to be in substantially the form as attached to this ordinance and hereby approved, or with such changes therein as the City Manager determines, upon advice of counsel, necessary and that do not materially change the matters contained in the form of the IGA Amendment.

SECTION 4. Conflicting Provisions.

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Code of Ordinances for the City or other City ordinances and resolutions, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

SECTION 5. Severability.

If any section, phrase, sentence, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, the invalid or unconstitutional portion is deemed a separate, distinct, and independent provision, and the holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. Effective Date.

This Ordinance is effective upon second reading.

DONE, RATIFIED AND PASSED, THIS _____ DAY OF_____, 2024.

_____
Mayor Marilyn Hatley

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

FIRST READING: 10.7.2024
SECOND READING: 10.21.2024

REVIEWED:

_____
Acting City Manager

ORDINANCE: 24-43

<u>Exhibit A</u> to Ordinance No. 24-43

Amendment to Intergovernmental Agreement

See attached.

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STATE OF SOUTH CAROLINA	**)**	**AMENDMENT TO**
	)	**INTERGOVERNMENTAL AGREEMENT**
COUNTY OF HORRY	**)**	**JOINT INDUSTRIAL AND BUSINESS PARK**
CITY OF NORTH MYRTLE BEACH	**)**	**(PALMETTO COAST INDUSTRIAL PARK)**

This Amendment to Intergovernmental Agreement (the "Amendment") is made and entered into this _____ day of _____, 2024 by and between HORRY COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina (the "County"), and the CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, a municipality organized and existing pursuant to the laws of the State of South Carolina (the "City").

RECITALS

WHEREAS, the County and City entered into that certain Intergovernmental Agreement – Joint Industrial and Business Park (Palmetto Coast Industrial Park) (the "IGA") pertaining to a multi-county park (the "Park") created pursuant to a Multi-County Park Agreement between the County and Marion County, South Carolina ("Marion County") (the "Park Agreement") for the Palmetto Coast Industrial Park on or about January 24, 2023; and

WHEREAS, Section 3(A) of the Park Agreement authorizes the County to add property to the Park without the consent of Marion County if such property is geographically located in the County, provided that the County must provide a revised "Exhibit A" to Marion County with the additional property included; and

WHEREAS, the City consented to the creation of the Park pursuant to the IGA for the property then specifically identified therein; and

WHEREAS, the County has requested and the City has agreed to consent to an amendment to the IGA whereby the City agrees, subject to the terms of the IGA, as amended by this First Amendment, to the inclusion in the Park of certain additional property in the County associated with Edgewater Ventures, LLC, as specifically identified herein (the "Edgewater Property").

AGREEMENT

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties hereto, intending to be legally bound, agree as follows:

SECTION 1. AMENDMENTS TO IGA.

A. Section 3 of the IGA is hereby amended to add the following parcels to those parcels as to which the City consents to including in the Park, subject to the terms of the IGA, as amended by this First Amendment:

1. PIN: 38900000243, property of PCIP 2 & 3 Partners LLC, 24.42 +/- acres (as of March 28, 2024)
2. PIN: 36000000008 and 38903010001, property of PCIP 1 Partners LLC, 19.73 +/- acres (as of March 28, 2024)
3. PIN: 38900000002, **[portion which is which is south and east of Water Tower Road (and contiguous to the three aforementioned parcels)]**, property of Henry Road West LLC, 63.40 +/- acres **[(to be updated more specifically upon any subdivision of the property)]** (as of March 28, 2024)

B. Section 4 of the IGA is hereby amended to insert and include the following provision as Section 4.C.:

Notwithstanding anything in this Intergovernmental Agreement to the contrary, the inclusion in the Park of any parcels geographically located within the City, and the City's consent thereto, shall in no way be construed to entitle specific users, uses, developments or structures on any such parcels within the Park, and the County acknowledges and agrees that all development proposals regarding such parcels now or hereafter within the Park shall seek approval via Major Amendment to the Parkway Group Planned Development District, a process which requires submission to the City Planning Commission for recommendation, City Council approval, and, subsequently, Site Plan Approval and building permits through the City Planning and Development Department.

SECTION 2. REMAINDER OF IGA.

Except as specifically amended hereby, the IGA otherwise remains in full force and effect.

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IN WITNESS WHEREOF, HORRY COUNTY, SOUTH CAROLINA, and the CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA, pursuant to due authority, have duly executed this Amendment to Intergovermental Agreement, all as of [_____, 2024].

HORRY COUNTY, SOUTH CAROLINA

By: _____
Johnny Gardner, Chairman of County Council

Attest:

_____
Ashley C. Carroll, Clerk to Council

CITY OF NORTH MYRTLE BEACH,
SOUTH CAROLINA

By: _____
Ryan Fabbri, Acting City Manager

Attest:

_____
Allison Galbreath, City Clerk

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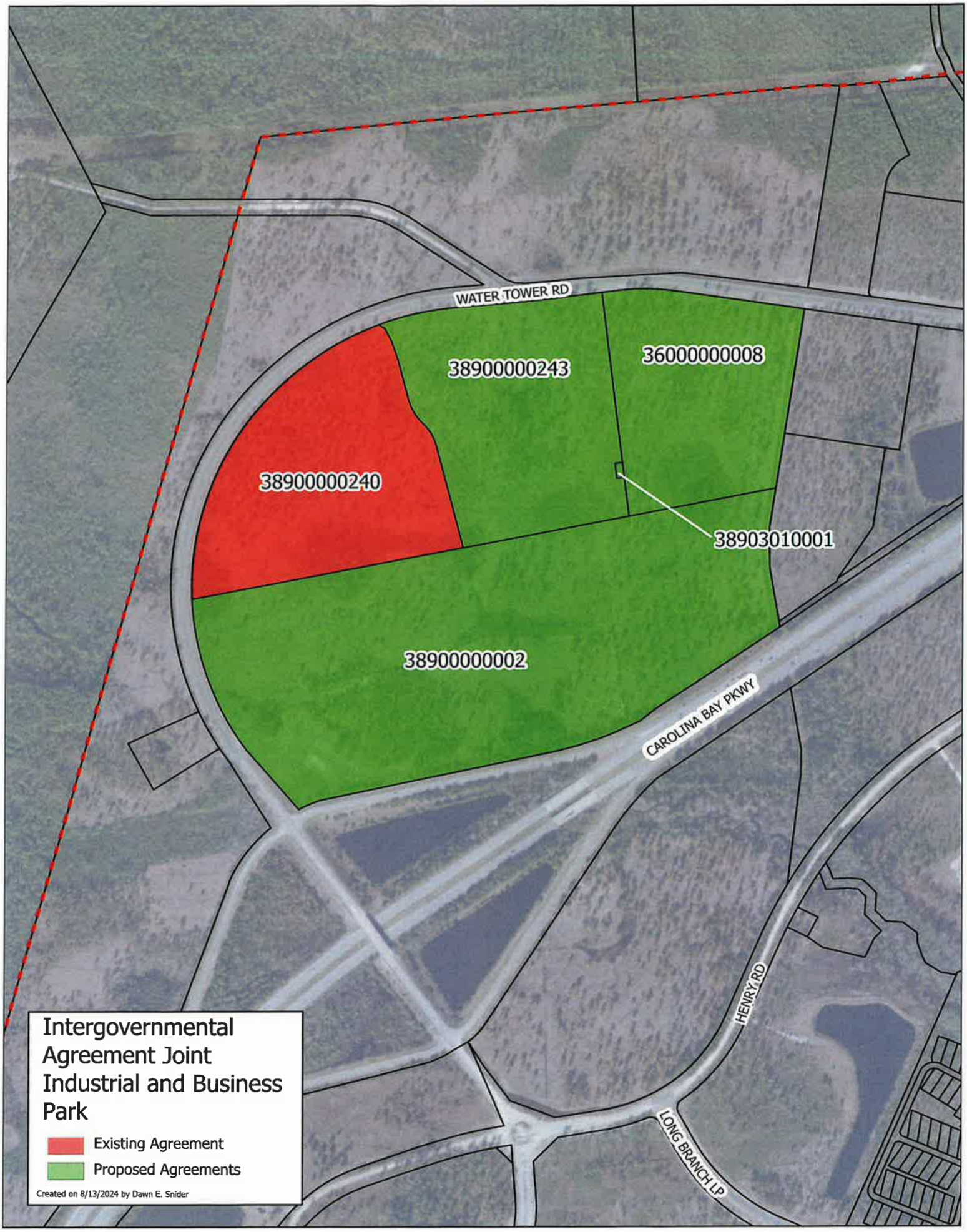
WATER TOWER RD
38900000243
36000000008
38900000240
38903010001
38900000002
CAROLINA BAY PKWY
HENRY RD
LONG BRANCH LP
Intergovernmental Agreement Joint Industrial and Business Park
Existing Agreement
Proposed Agreements
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