



Town of Holly Springs

Town Council Meeting Agenda Form

Town Clerk's Office Use:	
Agenda Item #:	9c
Attachment #:	8

Meeting Date: Aug.15

Agenda Placement: New Business

(Special Recognitions (awards, proclamations), Requests & Communications (reports, information presentations), Public Hearings, Consent Agenda, Unfinished Business, New Business, Closed Session)

Subject Title: New Hill Apartments Infrastructure Reimbursement Agreement

Presenter Name(s): Kendra D Parrish, PE

SUBJECT HIGHLIGHTS:

The New Hill Apartments is preparing to start construction on 288 apartment units. The project consists of 12 garden-style buildings with surface parking, a clubhouse, swimming pool, garage buildings and storage units. The developer brought the Town the Kite development for the Holly Springs Town Center and also contributed to a large portion of the construction of Bennet Knoll Parkway.

The proposed product includes upgraded plumbing fixtures, which include WaterSense approved showerheads, toilets, and bathroom faucets. These type fixtures are EPA sponsored to meet criteria for efficiency and performance. The project also will be Holly Springs' first National Green Building Standard (NGBS) certified multifamily community. The NGBS is a third party company that verifies the community is built to achieve high efficiency performance in six key areas: Site Design, Resource Efficiency, Water Efficiency, Energy Efficiency, Indoor Environmental Quality, and Building Operation and Maintenance.

Based on these merits staff and the Town Attorney have met with the developer several times and discussed a 20% reimbursement in the water and sewer capacity debt repayment fees which are paid at building permit time. A 20% reimbursement is \$547,200.

ADVISORY BOARD RECOMMENDATION:

n/a

STAFF REVIEW NOTE:

n/a

Number of Motions with this Item: 1

Suggested motion(s):

Motion to enter an Infrastructure Reimbursement Agreement with the developer of New Hill Apartments for 20% reimbursement of water and sewer capacity fees.

Staff Review Record

Are there exhibits for this agenda item? **yes**

List them in order they should appear in packet: Infrastructure Reimbursement Agreement

Department head initials and comments, if applicable: kp

Finance director initials and comments, if applicable:

Town attorney initials and comments, if applicable:

Town manager initials and / or comments: css by jp

Town clerk initials: jp

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**AGREEMENT REGARDING INFRASTRUCTURE CONSTRUCTION AND FEE
REIMBURSEMENT**

BY AND BETWEEN

**NEW HILL ASSOCIATES, LLC
&
THE TOWN OF HOLLY SPRINGS, NORTH CAROLINA**

THIS AGREEMENT, made and entered into this ____ day of ___, 2017, by and between the **TOWN OF HOLLY SPRINGS**, a North Carolina Municipal corporation, hereafter referred to as the “Town” and **NEW HILL ASSOCIATES, LLC**, a Virginia limited liability company, hereafter referred to as the “Developer.”

WITNESSETH:

WHEREAS, Developer owns or pursuant to that certain Agreement regarding the Purchase and Sale of Real Property (the “**Purchase Agreement**”), has contracted to purchase certain unimproved lands located in Wake County, North Carolina and within the corporate limits of the Town of Holly Springs being commonly referred to as the following parcels which are subject to this Agreement (the “**Property**”):

See **Exhibit D** attached hereto and incorporated herein.

WHEREAS, the Developer wishes to develop the Property for residential purposes, containing 288 apartment units in approximately 12 garden style apartment buildings with surface parking, together with a clubhouse and swimming pool, and approximately 8 garage buildings with 47 garage units and 70 storage units, all as shown on a plan submitted to the Holly Springs Department of Planning and Zoning and approved by the Town Council on _____ hereinafter, “**Residential Project**”).

WHEREAS, the Developer is required to construct certain infrastructure improvements relative to the Residential Project to enable the safe movement of traffic near the Residential Project and to allow for the proper provision and planning of water and sewer for the residences of the Residential Project and adjacent parcels.

WHEREAS, the parties of this Agreement desire to enter into this Agreement in order to fully set forth the terms and conditions as to the infrastructure improvement to be required of the Developer and the cost participation agreed to by the Town.

WHEREAS, the Town requires, pursuant to N.C.G.S. § 160A-372, the dedication and construction of streets and rights of way and other infrastructure and for the coordinated provision of utilities that will create conditions essential to public health, safety, and the general welfare.

WHEREAS, the parties wish to agree to provide a mechanism for compensating the Developer for the construction of water and sewer fixtures that reduce consumption.

WHEREAS, the Town has enacted a subdivision control ordinance, pursuant to N.C.G.S. §160A-372 which provides for the orderly control of growth and development in the Town in general and on the Property.

WHEREAS, the Town is authorized pursuant to N.C.G.S § 160A-311 et. seq. to operate and does in fact operate a water enterprise and requires, pursuant to N.C.G.S. § 160A-317, the connection to the system by owners of developed lands located within the Town, for a cost set forth in the Town's annual budget.

WHEREAS, the Town is authorized to enter into this Agreement pursuant to N.C.G.S. § 160A-16, and may contract with the Developer to carry out the public purposes set forth herein pursuant to N.C.G.S. §160A-20.1 and the Town Council of Holly Springs has determined that it is in the best interests of its citizens to do so.

WHEREAS, the Town requires certain fees to be paid upon development of land and for the granting of a building permit, said fees being listed in the Town's annual budget, and the Developer (i) is familiar with these fees, (ii) does not dispute the reasonableness of these fees as set forth in Exhibit B; and (iii) notwithstanding any reimbursements discussed below, hereby agrees to timely pay all normal and customary fees applicable to Developer in connection with the Residential Project as such fees are so listed in the current year annual budget of fees at the time the fee is due under the ordinary course of development.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein the Town and the Developer agree as follows:

ARTICLE I

1. **General Terms:** Subject to the conditions expressly set forth herein, all terms of this Agreement shall become enforceable upon signing of the Agreement by the Developer and ratification by the Town Council.
2. **Definitions:**
 - a. Actual Construction Cost(s): The amount of costs incurred by Developer for construction of the Residential Project upon final completion and approval by the Town, exclusive of any of the following costs: right of way acquisition, legal fees, administrative costs (including but not limited to profit and overhead) of the Developer, or any contingency.
 - b. Applicable Parcels: The covenants contained in this Agreement shall apply to the Property as described on Schedule A attached hereto.

- c. Approved Site Plan: NEW HILL PLACE APARTMENTS, 12-DP-02-A03, Notice of Action dated June 20, 2017, approved by the Town of Holly Springs, North Carolina.
- d. Construction Documentation: The following documentation is required to be supplied by Developer under this Agreement for any and all infrastructure and improvements that are to be dedicated to the Town for public maintenance: construction plans, as-built drawings (surveys, plats, or any other documentation or electronic file required by the Director of Engineering), operation & maintenance manuals (if any), invoices, payment confirmation, lien waivers of subcontractors, and engineer certifications.
- e. Capacity Replacement Fees: Those water and sewer fees, named as such in the Town's adopted annual budget, which are calculated on a per Residential Unit basis, for Residential Units located in the Residential Project not to exceed the Capacity Replacement Fees in effect at the time the fee is due and owing the Town, a current schedule of which is attached hereto as **Exhibit B** and by this reference made a part hereof.
- f. Developer's Work: Shall mean the design, installation and construction of infrastructure or improvements by Developer that are contemplated by this Agreement, which upon completion are to be dedicated to the Town for public maintenance.
- g. Fee Credit: An amount to reimburse a fee that is otherwise payable by Developer as a development expense. Under no circumstance shall a Fee Credit exceed the amount of the fee actually paid to the Town as a Capacity Replacement Fee.
- h. Off-Site: Any reference to infrastructure or land that is not contained in the Applicable Parcels.
- i. Residential Project: Shall have the meaning as described in the 2nd recital above.
- j. Residential Unit: Shall mean each residential unit available for occupancy in the Residential Project.
- k. Substantially Complete(d) or Substantial Completion: With regard to the Developer's Work, Substantially Complete(d) and Substantial Completion shall mean and refer to the condition occurring when the applicable portion of the Developer's Work required by the approved construction drawings has been completed as confirmed by the Town's (i) inspection of the Developer's Work; and (ii) review and approval of any dedication plat(s) related to the Developer's Work.

ARTICLE II DEVELOPER'S DUTIES

1. **Start.** Developer shall execute this agreement within seven (7) days of Town Council Approval and provide a five (5) year schedule of build out, updating each year as may be applicable. Ownership of the Property is a condition precedent to any rights or duties under this Agreement. In the event that the Developer does not own the Property and or has not acquired the Off-site Easements (as hereinafter defined) within 90 days of the execution of this Agreement, this Agreement shall terminate and the Parties shall have no further duty towards each other or remedies under this Agreement.
2. **Process.** The Developer shall construct at its expense all on-site infrastructure necessary to serve the Residential Project in a manner consistent with reasonable and customary

practices and according to plans and specifications approved by the Town and in accord with the Town's development standards. The Developer shall pay on a per-Residential Unit basis, all development fees required by the Town in a time and manner required by the Town, unless otherwise provided in this Agreement.

3. **Infrastructure Reimbursement.** In return for completing the obligations set forth herein with regard to the development of the Residential Project, the Developer shall receive Fee Reimbursements against certain Capacity Replacement Fees for water and sewer associated with the development of the Property and the Residential Project, as more particularly described below.
4. **Description of Developer's Work.** For purposes of this Agreement, the following shall be referred to collectively as "**Developer's Work**":

Development of Wake County Tax Parcel #0649-37-7395 (19.39-acres of land located at the intersection of Veridea Parkway and Bennett Knoll Parkway in Holly Springs, NC) with a 288-unit multi-family apartment community, featuring 12 residential buildings, 1 clubhouse and pool deck and 8 garage buildings.

ARTICLE III

REIMBURSEMENT OF FEES

Water and Sewer Capacity Fees. After a Capacity Replacement Fee is paid with respect to any Residential Unit, the Developer shall be entitled to a reimbursement in an amount equal to twenty percent (20%) of the combined Capacity Replacement Fee, as applicable, paid with respect to that Residential Unit ("**Fee Reimbursement**"). Twenty percent reimbursement is based on the water and sewer usage reduction achieved from the project's upgraded plumbing fixtures, which include WaterSense approved showerheads, toilets and bathroom faucets in all units. WaterSense is an EPA sponsored program that certifies products and services that meet certain criteria for efficiency and performance—WaterSense-labeled products use a minimum of 20% less water, save energy and perform as well or better than regular models. These high efficiency fixtures will result in a usage reduction from a standard metric average of 250 gallons per unit per day to an average of 100 gallons per unit per day—a 60% reduction in usage that will reduce the Town of Holly Springs' annual water and sewer treatment by over 15.5 million gallons.

The project will also be Holly Springs' first National Green Building Standard (NGBS) certified multifamily community. NGBS provides an independent, third-party verification that green practices were used in a project's design and construction—specifically, that the community has been built to achieve high efficiency performance in six key areas: Site Design, Resource Efficiency, Water Efficiency, Energy Efficiency, Indoor Environmental Quality, and Building Operation & Maintenance.

Based on projected estimate for total Capacity Replacement Fees, an amount equal to \$547,200.00 will be available for reimbursement.

1. **Schedule of Credits/Reimbursements.** The sum total of all Fee Credits and Fee Reimbursements made under this Agreement at any time is referred to herein as the “**Aggregate Credit/Reimbursement.**” The Capacity Replacement Fees and the applicable Fee Credit or Fee Reimbursement, are set forth in **Exhibit B** attached hereto.
2. **Maximum Fee Credit/Reimbursement Amount.** The Developer shall be entitled to an Aggregate Credit/Reimbursement that does not exceed the Maximum Fee Credit/Reimbursement Amount (as defined below). Notwithstanding anything contained herein to the contrary, (i) the Fee Credits due to Developer shall be given to Developer notwithstanding that Actual Construction Costs have not been incurred (or have not been incurred in sufficient amounts) at the time the Fee Credit is given; and (ii) in no event shall the Aggregate Credit/Reimbursement exceed the amount that would ordinarily be due for the Residential Project with respect to the Capacity Replacement Fees.
3. **Maximum Allowable Amount.** The total amount of Fee Credits and/or Fee Reimbursements provided to the Developer shall in no case exceed \$547,200.00 (for purposes of the Town’s pre-audit requirement, however shall not any anytime exceed the amount of Capacity Replacement Fees paid by the Developer, (the “**Maximum Fee Credit/Reimbursement Amount**”).
4. **Documentation.** The Developer has a duty to supply to the Town all documentation needed by the Town to establish and calculate the amount of Fee Reimbursement, without prior demand from the Town. The Town has the right to audit the books and records of the Developer, on at least two (2) business days prior notice, with regard to any issue relating to any of the Fee Reimbursements covered in this Agreement for one (1) year after the final acceptance of the last phase constructed.
5. **Obtaining Reimbursement of Fees.** All Capacity Replacement Fees shall be charged and paid in full at the time they are due to the Town. At the end of each quarter, the Developer will submit the Fee Reimbursement Form attached hereto as **Exhibit C** to the Director of Engineering for reimbursement. Once the form is received by the Director of Engineering it shall be reviewed. The Director has ten (10) days to approve or deny and an additional twenty (20) days to process payment. In the event the Director denies approval, the Director shall promptly notify Developer in writing specifying the reason for such denial in reasonable detail. Developer’s submission for reimbursement shall be deemed approved unless Director notifies Developer to the contrary within fifteen (15) days following resubmission.

ARTICLE IV OTHER

1. **Developer Constructed Infrastructure.** The infrastructure constructed by the Developer as part of the Residential Project shall be subject to the Town’s usual and customary policies and procedures regarding acceptance (including a one year warranty to be provided by Developer after acceptance by the Town).

2. **Design.** It shall be the responsibility of the Developer to fully design the Residential Project, and provide Construction Documentation for the Residential Project to the Town, and to ensure that all regulatory approvals for the Residential Project are in place before beginning construction. The

Developer shall keep the Developer's design engineer on retainer to respond quickly to the Town in the event that the Town needs the designer to provide clarification, explanation, oversight, etc. of any issue that arises during construction of the Residential Project that was designed under his oversight. The Developer shall bear all expenses associated with same.

3. **Indemnification.** The Developer agrees to protect, defend, indemnify and hold the Town and its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees, or other expenses or liabilities of every kind in character and arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of actions of every kind and character made by third parties in connection with or arising from the injury to (including death of) persons or physical damage to property arising out of the performance of Developer's obligations under this Agreement by Developer, its agents, employees and contractors (collectively, "Claims"), except to the extent any such Claims arise out of the negligence or willful misconduct of the Town or its agents, employees or contractors. The Developer further agrees to investigate, handle, provide defense for and respond to, any such Claims at its sole expense (to the extent not covered by insurance) and agrees to bear all other costs and expenses related to such Claims, even if such Claims are groundless, false, or fraudulent but only to the extent the same are not expressly excluded as set forth herein. The Developer's indemnity obligations under this Section shall terminate on the date that is two (2) years after completion of the Residential Project.

4. **Notices.** All notices, reports, and other communications given pursuant to this Agreement shall be in writing and shall either be mailed by first class mail, postage prepaid, certified or registered with return receipt requested, overnight courier or delivered in person to the intended addressee. Notice sent by certified or registered mail shall be effective upon the date of delivery indicated on the return receipt. Notice given in any other manner shall be effective upon actual receipt by the addressee.

5. **Expiration.** If the Developer does not commence construction of the Residential Project within twelve (12) months following the earlier of (i) Developer's acquisition of the Property, (ii) Developer's receipt of the Approved Site Plan, or (iii) the first anniversary of the date of this Agreement, this Agreement shall terminate and the parties shall have no further obligations under this Agreement. Otherwise, this Agreement shall last ten (10) years from the date of this Agreement. Any Fee Credits earned but not realized at the expiration of this ten (10) year period shall expire and no longer be available to the Developer or any other party.

6. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina. The parties consent to the jurisdiction of Wake County. Furthermore, this Agreement is entered under the authority of N.C. General Statutes 160A-499, and any provision hereof in conflict with that authority shall be null and void.

7. **Entire Agreement.** This Agreement, along with the Approved Site Plan and the construction drawings for the Residential Project, contain the entire agreement of the parties for matters herein contemplated, and there are no representations, inducements or other provisions other than those

expressed in writing.

8. **Public Contracts.** This Agreement is not subject to Article 8 of Chapter 143 of the North Carolina General Statutes except that Developer shall solicit bids in accordance with Article 8 of Chapter 143 of the General Statutes when awarding contracts for work that would have required competitive bidding if the contract had been awarded by the Town.

9. **Default.** The terms and conditions of this Agreement shall be enforceable by the parties by actions for specific performance or injunction in addition to any other remedies available at law or in equity, subject to any defenses that may be asserted, provided that the non-defaulting party provides due notice and an opportunity to cure to the defaulting party and the defaulting party fails to cure the breach within thirty (30) days after receipt of such notice. Notwithstanding the foregoing sentence, if the breach is of a nature that it cannot be cured within such 30 day cure period, and further provided the defaulting party commences to cure the breach within 30 days after receipt of such notice and thereafter diligently and using commercially reasonable efforts pursues the cure to completion, the non-defaulting party shall not commence enforcement of its remedies. Any failure or omission of the non-defaulting party to exercise any right or remedy provided herein shall not be deemed a waiver of such party's right to enforce strictly the defaulting party's obligations in any other instance.

10. **Force majeure.** Neither party to this Agreement shall be in breach or default of any provisions hereof by reason of delay or failure in the discharge or performance of any duty or obligation hereunder due to acts of God, war, government laws or regulations, civil disorder, labor difficulties, inability to obtain materials, or any other such cause beyond the party's reasonable control, including, but not limited to, the need to utilize the Town's condemnation powers as set forth in Section 16 of this Article IV (each and collectively, "**force majeure delays**"). In the event of force majeure delays, all time periods and time deadlines in this Agreement shall be extended automatically for the period of such force majeure delay.

11. **Authority.** The Town and Developer each warrant and represent to the other that it has full right and authority to enter into this Agreement, and that the person signing on behalf of each party is authorized to do so.

12. **Relationship of the Parties.** This Agreement shall not be considered to create a joint venture, partnership or other legal relationship between the parties or as giving the right of either party to legally bind the other party in any manner or to be able to incur debts or liabilities on behalf of the other party or create a condition in which either party shall share or be responsible for the debts or liabilities of the other party. This Agreement shall not be considered to constitute the appointment of either party as a representative of the other party.

13. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect. Furthermore, in lieu of such invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be reasonably possible.

14. **Amendment.** This Agreement may not be amended or terminated except by written instrument signed by both parties.

15. **Assignment.** This Agreement may not be assigned without the written consent of the Town, such consent not to be unreasonably withheld, conditioned or delayed. The obligations under this Agreement are binding on the successors and/or assigns of the Developer regardless of whether or not the Town consented to such assignment.

16. **Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and there are no representations, warranties, covenants or obligations except as set forth in this Agreement. This Agreement supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions relating to the subject matter hereof, written or oral, of the parties.

17. **Dedication.** It is anticipated that upon completion, following any necessary holding periods, each of the improvements constructed pursuant to this Agreement shall be conveyed by recorded easement (in the event of an underground utility line) to the Town and/or dedication plat to the Town (or such other applicable government entity), and upon dedication, conveyance or assignment of such easements/improvements to the proper governmental entity, the obligations of the Developer with respect thereto shall terminate, and such applicable governmental entity shall have the continuing and ongoing obligation to maintain and repair the same.

18. **Approval.** This Agreement does not guarantee any specific approvals of any proposed development plan, provided, however, that all approvals granted prior to the date of this Agreement shall continue to be valid and in full force and effect.

19. Exhibit List: The following exhibits are hereby incorporated by reference:

- | | |
|------------|---------------------------------------|
| EXHIBIT A: | Survey of Applicable Parcels |
| EXHIBIT B: | Schedule of Capacity Replacement Fees |
| EXHIBIT C: | Reimbursement Request Form |
| EXHIBIT D: | Legal Description |

20. Notices under this agreement shall be to the following:

FOR THE TOWN:

Charles S. Simmons, III
Town Manager
PO Box 8
Holly Springs, NC 27540
Reference:

FOR THE DEVELOPER:

New Hill Associates, LLC
230 Court Square, Suite 202
Charlottesville 22902
Attn: Andrew E. McGinty

[Signature Page Follows]

DRAFT

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

TOWN OF HOLLY SPRINGS

(Town Seal)

BY: _____
Charles S. Simmons, III, Town Manager

ATTEST:

Joni Powell, Town Clerk
Linda Harper, Deputy Town Clerk

DEVELOPER

NEW HILL ASSOCIATES, LLC,
a Virginia limited liability company

By: CDP New Hill, LLC,
a Virginia limited liability company,
its Manager

By: Coleway Development, LLC,
a Virginia limited liability company,
its Manager

By: _____
Andrew E. McGinty, Manager

ATTEST:

Secretary/Assistant Secretary

This document is sufficient as to form.

John P. Schifano, Town Attorney

This instrument has been pre-audited in the manner proscribed by the Local Government Finance Act.

Mary Hogan
Finance Director

DRAFT

NORTH CAROLINA
WAKE COUNTY

I, a Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that she is the Town Clerk/Deputy Town Clerk of the Town of Holly Springs, and that the seal affixed to the foregoing instrument in writing is the corporate seal of said Town, and that said writing was signed and sealed by her in behalf of said corporation by its authority duly given and the said person acknowledged this writing to be the act a deed of said corporation.

WITNESS my hand and official stamp (or seal), this the ___ day of _____

Notary Public

My Commission Expires: _____

STATE OF _____)

)ss.

COUNTY OF _____)

On this _____ day of _____, 20____, before me, a notary public, personally appeared Andrew E. McGinty, the Manager of Coleway Development, LLC, a Virginia limited liability company, the manager of CDP New Hill, LLC, a Virginia limited liability company, the manager of New Hill Associates, LLC, a Virginia limited liability company, named in the foregoing instrument and acknowledged said instrument on behalf of the company.

Notary Public

Registration No: _____

Notary Expires: _____

Attach the following

- EXHIBIT A: Survey of Applicable Parcels
- EXHIBIT B: Schedule of Capacity Replacement Fees
- EXHIBIT C: Reimbursement Request Form
- EXHIBIT D: Legal Description

DRAFT

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EXHIBIT A

See attached

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EXHIBIT B

Schedule of Capital Replacement Fees and Credits/Reimbursements					
			<u>Fee</u>	<u>Units</u>	<u>Total Fee</u>
Capital Replacement Fees					
	Water		\$ 2,850.00	288.00	\$ 820,800.00
	Sewer		\$ 6,650.00	288.00	\$ 1,915,200.00
				Fee Total	\$ 2,736,000.00
				Reimbursement %	20%
				Reimbursement Total	\$ 547,200.00

EXHIBIT C
FEE REIMBURSEMENT FORM
To be submitted quarterly

Date of Request: _____

Developer: _____

Project: _____

1. Total Eligible reimbursement under this Agreement: \$ _____
2. Total Fee Credits earned to-date: \$ _____
3. Total Reimbursements made to-date: \$ _____
4. Sum of Credits Requested for this request (lots named below) \$ _____
5. Total Remaining Credits available (Line 2 minus sum of 3&4) \$ _____

*Based upon final Town approved amount of credit/reimbursement based upon documentation submitted by developer to Director of Engineering

** To be paid in full, to Developer, upon approval of its initial submission for reimbursement.

This reimbursement request is being made for the following lots:

Lot Number (or range)	Permit Number	Date of Payment	Water/Sewer

Use additional Sheets if necessary

CERTIFICATION OF DEVELOPER

The undersign certifies that the above described permits are eligible for reimbursement under the Reimbursement Agreement , the fees have been paid in full, and have not been previously reimbursed by the Town. All other information on this form is true and accurate to the best of my knowledge.

Signature: _____

Printed name and title: _____

Approval for payment by Director of Engineering

sign and date

EXHIBIT D

Legal Description

ALL that certain lot or parcel of land more particularly described as follows:

Road, NCSR 1153) lying and being in the town of Holly Springs, Wake County, North Carolina and being bounded on the North by the property of Forest Springs, LLC (Deed Book 11617, Page 557, Wake County Registry), on the East and on the South by the property (now or formerly) of N.F. Ransdell Heirs (Deed Book 952, Page 448, Wake County Registry); and, on the West by the eastern right-of-way line of the said Old Holly Springs Apex Road, and the property of Holly Springs Disposal, Inc. (Deed Book 4916, Page 537, Wake County Registry) and being more particularly described as follows:

BEGINNING at an iron pipe found in the northwesternmost corner of the Subject Property, a common corner with Forest Springs, LLC, and thence proceeding along the common property line with Holly Springs Disposal, Inc. South 05 degrees 02 minutes 30 seconds West 181.12 feet to an iron pipe set in the eastern right-of-way line of Old Holly Springs Apex Road thence proceeding along the eastern right-of-way line of Old Holly Springs Apex Road the following courses and distances: South 33 degrees 02 minutes 21 seconds East 46.10 feet to a point; thence South 34 degrees 12 minutes 41 seconds East 48.48 feet to a point; thence South 37 degrees 17 minutes 12 seconds East 47.67 feet to a point; thence South 42 degrees 17 minutes 45 seconds East 50.12 feet to a point; thence South 44 degrees 31 minutes 49 seconds East 48.82 feet to a point; thence South 45 degrees 49 minutes 53 seconds East 50.89 feet to a point; thence South 46 degrees 10 minutes 59 seconds East 48.11 feet to a point; thence South 46 degrees 46 minutes 04 seconds East 53.62 feet to a point; thence South 46 degrees 26 minutes 53 seconds East 49.93 feet to a point; thence South 46 degrees 26 minutes 45 seconds East 47.64 feet to a point; thence South 45 degrees 54 minutes 57 seconds East 47.03 feet to a point; thence South 45 degrees 13 minutes 57 seconds East 50.58 feet to a point; thence South 41 degrees 13 minutes 46 seconds East 2.31 feet to a point; thence leaving the eastern right-of-way line of Old Holly Springs Apex Road and proceeding along a thence along a curve to the left having a radius of 1,000.00 feet, an arc length of 708.52 feet, and a chord bearing and distance of South 79 degrees 50 minutes 37 seconds East 693.79 feet to an iron pipe set; thence proceeding North 79 degrees 51 minutes 32 seconds East 927.66 feet to an iron pipe set in a point in the centerline of a creek; thence proceeding along the centerline of the creek in the following courses and distances: North 43 degrees 18 minutes 09 seconds West 24.69 feet to a point; thence North 10 degrees 34 minutes 48 seconds West 10.12 feet to a point; thence North 77 degrees 17 minutes 07 seconds West 7.64 feet to a point; thence North 79 degrees 25 minutes 37 seconds West 8.53 feet to a point; thence North 18 degrees 10 minutes 48 seconds West 8.82 feet to a point; thence North 71 degrees 44 minutes 44 seconds West 26.28 feet to a point; thence North 24 degrees 12 minutes 31 seconds West 10.94 feet to a point; thence South 80 degrees 59 minutes 05 seconds West 10.85 feet to a point; thence North 50 degrees 12 minutes 54 seconds West 10.79 feet to a point; thence South 72 degrees 12 minutes 33 seconds West 53.76 feet to a point; thence North 56 degrees 42 minutes 10 seconds West 25.69 feet to a point; thence North 88 degrees 39 minutes 39 seconds West 38.58 feet to a point; thence North 30 degrees 53 minutes 03 seconds West 32.32 feet to a point; thence North 75 degrees 41 minutes 35 seconds West 11.34 feet to a point; thence South 37 degrees 18 minutes 15 seconds West 7.09 feet to a point; thence North 83 degrees 04 minutes 19 seconds West 25.13 feet to a point; thence North 63 degrees 02 minutes 39 seconds West 15.00 feet to a point; thence North 10 degrees 35 minutes 57 seconds East 7.39 feet to a point; thence North 64 degrees 41 minutes 10 seconds West 15.85 feet to a point; thence North 19 degrees 36 minutes 45 seconds West 18.25 feet to a point; thence North 56 degrees

25 minutes 49 seconds East 10.08 feet to a point; thence North 06 degrees 01 minutes 07 seconds East 8.65 feet to a point; thence North 67 degrees 55 minutes 41 seconds West 27.34 feet to a point; thence South 71 degrees 39 minutes 11 seconds West 9.95 feet to a point; thence North 81 degrees 04 minutes 04 seconds West 9.51 feet to a point; thence North 02 degrees 32 minutes 52 seconds East 45.46 feet to a point; thence North 23 degrees 03 minutes 26 seconds East 30.42 feet to a point; thence North 06 degrees 33 minutes 14 seconds West 17.81 feet to a point; thence South 81 degrees 57 minutes 28 seconds West 29.11 feet to a point; thence North 50 degrees 06 minutes 15 seconds West 22.02 feet to a point; thence North 36 degrees 55 minutes 11 seconds West 12.76 feet to a point; thence North 32 degrees 09 minutes 13 seconds East 19.73 feet to a point; thence North 01 degrees 16 minutes 20 seconds West 10.44 feet to a point; thence North 23 degrees 10 minutes 02 seconds West 9.82 feet to a point; thence North 80 degrees 10 minutes 24 seconds West 10.30 feet to a point; thence North 42 degrees 44 minutes 59 seconds West 17.36 feet to a point; thence South 64 degrees 21 minutes 34 seconds West 16.95 feet to a point; thence North 84 degrees 26 minutes 03 seconds West 19.42 feet to a point; thence North 22 degrees 56 minutes 04 seconds West 9.93 feet to a point; thence North 08 degrees 33 minutes 21 seconds West 13.87 feet to a point; thence North 55 degrees 52 minutes 57 seconds East 9.17 feet to a point; thence North 11 degrees 13 minutes 41 seconds East 18.95 feet to a point; thence North 77 degrees 11 minutes 26 seconds West 23.97 feet to a point; thence North 01 degrees 14 minutes 39 seconds East 27.73 feet to a point; thence North 49 degrees 48 minutes 09 seconds East 6.73 feet to a point; thence North 13 degrees 06 minutes 17 seconds West 18.24 feet to a point; thence South 64 degrees 34 minutes 13 seconds West 21 .83 feet to a point; thence North 52 degrees 03 minutes 15 seconds West 26.06 feet to a point; thence North 00 degrees 11 minutes 00 seconds West 8.71 feet to a point; thence North 59 degrees 27 minutes 04 seconds West 8.99 feet to a point; thence leaving the centerline of the creek and proceeding North 84 degrees 35 minutes 58 seconds West 1511.02 feet to the POINT AND PLACE OF BEGINNING all as shown on that certain survey entitled "Subdivision Map for Springs Investors, LLC" prepared by Withers and Ravenel Kenneth Close Surveying, dated October 22, 2007.

Also being all of Tract 3, containing 21.669 acres, as shown on that certain subdivision map recorded in Book of Maps 2008, Page 1341, Wake County Registry.

LESS AND EXCEPT any portion of the above described property located within Bennet Knoll Parkway (as shown on that Right-of-Way and Easement Dedication recorded in Book of Maps 2017, Pages 614-616, Wake County Registry).