

Policy Regarding Town Participation in Utility Projects

1. A developer or property owner is required to install water and sewer facilities sufficient to meet the needs of their development. In order to provide for the orderly and efficient long term growth of the Town's water and sewer infrastructure, the Town of Apex may contract with a developer or property owner ("**Developer**") for the construction of utility improvements that are adjacent or ancillary to a private land development project and in excess of the needs of the private land development project ("**Oversized Improvements**"). Facilities shall be sized in accordance with the Town's Water and Wastewater Facilities Plan ("**Plan**") or as approved by the Director of Water Resources.
2. When Oversized Improvements are required by the Plan, the Developer shall be reimbursed for cost associated with the design and construction of improvements that are in addition to those required to serve the needs of the development in accordance with this Policy.
3. Developer shall be reimbursed the incremental cost differential for construction of water distribution lines, sanitary sewer collection lines, sewer pump stations, and sewer force mains under the following conditions:
 - a. The Oversized Improvements exceed the needs of the development; and
 - b. The waterline distribution line or sanitary sewer collection line, as applicable, is greater than an 8 inch line; and
 - c. The Developer complies with Article 8 of Chapter 143 of the North Carolina General Statutes when awarding contracts where the estimated public cost exceeds \$250,000; and
 - d. The Developer administers the construction contract without cost or expense to the Town and file reports of its administration with the Town's Water Resources Director or the Water Resources Director's designee; and
 - e. A Reimbursement Agreement is approved by the Town Council.
4. "**Approved Incremental Construction Cost**" shall be determined as follows: The incremental cost differential for the Oversized Improvements shall be determined by (a) conducting a publicly bid construction contract process showing the minimum required sizing sufficient to meet the needs of the development as the base bid and the Oversized Improvements as an alternate bid or (b) based on a set unit price cost differential using the Town's published costs for determining performance guarantees. In the case of a pump station, certified estimates will be provided by Developer Engineer and Town Engineer to analyze and reach agreement on an "**Oversized Improvement Percentage**". The Oversized Improvement Percentage would be applied to the publicly bid pricing to determine the Approved Incremental Construction Cost. Any or all of the above methods may be used for a single project or as agreed to in the Reimbursement Agreement. The Approved Incremental Construction Cost shall not include any change orders increasing the costs of the construction unless reviewed and approved by the

Town's Water Resources Director or the Water Resources Director's designee in writing prior to execution of the change order.

5. In addition to the Approved Incremental Construction Cost, the Developer may be reimbursed for non-construction costs such as engineering, surveying, and land acquisition in an amount not to exceed 15% of the Approved Incremental Construction Cost; provided however, Developer must comply with the Mini-Brooks Act and any other state law or regulation applicable to procuring those services as if the Town were procuring said services ("**Approved Incremental Design Cost**"). The aggregate of the Approved Incremental Construction Cost and Approved Incremental Design Cost is the "**Town's Share.**"
6. Upon completion of construction of the Oversized Improvements and acceptance of the facilities by the Town, Town's Share shall be reimbursed as follows:
 - a. Developer shall receive a credit against Developer owed Capital Reimbursement Fees ("**Fee Credits**").
 - b. Upon acceptance of the facilities and annually thereafter, Developer shall receive payments of any remaining Town Share ("**Annual Payment**") in accordance with the following schedule:
 - Town Share less Fee Credits is less than or equal to \$800,000, Annual Payment shall be paid out over a period of time not to exceed 4 years.
 - Town Share less Fee Credits is between \$800,000 and \$1,200,000, Annual Payment shall be paid out over a period of time not to exceed 6 years.
 - Town Share less Fee Credits is between \$1,200,000 and \$1,600,000, Annual Payment shall be paid out over a period of time not to exceed 8 years.
 - Town Share less Fee Credits is greater than \$1,600,000, Annual Payment shall be paid out over a period of time not to exceed 10 years.

For example, if the Town's share is \$600,000 and the Fee Credits equal \$100,000, the remaining \$500,000 will be spread among 4 equal Annual Payments of \$125,000.

- c. Reimbursement for water system improvements shall only be received from Water Capital Reimbursement Fee funds. Likewise, reimbursement for sewer system improvements shall only be received from Sewer Capital Reimbursement Fee funds.
 - d. In no event shall the Fee Credits or the aggregate of the Fee Credits and Annual Payment received by the Developer exceed the amount of the Town's Share.
7. The Town's obligation to reimburse Developer under this Policy shall automatically terminate on the 10th anniversary of the acceptance of the completed facilities by the Town or the date on which the Developer has been reimbursed in full the amount of the Town's Share, whichever occurs first.