

CITY OF HIGH POINT

AGENDA ITEM



Title: BSC Holdings, Inc. – Reimbursement Agreement Amendment

From: Randy E. McCaslin, Deputy City Manager

Meeting Date: June 3, 2019

Public Hearing: N/A

**Advertising Date /
Advertised By:**

Attachments: Resolution
Reimbursement Agreement

PURPOSE:

Authorize the City to amend a reimbursement agreement with BSC Holdings, Inc. for public enterprise improvements that are adjacent or ancillary to a private land development project.

BACKGROUND:

NCGS §160A-499 authorizes the City to enter into reimbursement agreements with private developers and property owners for the design and construction of municipal infrastructure that is included on the City's Capital Improvement Plan and serves the developer or property owners. BSC Holdings, Inc. will develop a 400-unit mixed residential development on an approximately 71-acre tract of land located along the boundaries of Kendale Road, Sandy Ridge Road and Johnson Street. The success of this project requires expansion of infrastructure that is included on the City's Capital Improvement Plan and is in the best interest of the City and BSC to jointly provide related improvements, which will serve not only this project but future development in the area as well. The City Council approved the original agreement on September 18, 2017. The original estimate was an "engineering estimate" that was completed prior to any surveying or actual engineering of the sewer line. Now that the surveying engineering design, easement acquisition, and project bidding is complete, the cost of the construction (over the original engineering estimate) is over \$220,000 more than the reimbursement agreement allows. In additional discussions with the developers, we have tentatively agreed to increase the reimbursement amount, pending City Council's approval to the amount we had approved in the CIP, not to exceed \$500,000.

BUDGET IMPACT:

Increase reimbursement amount from \$358,300 to the approved CIP amount, of not to exceed \$500,000.

RECOMMENDATION / ACTION REQUESTED:

Council is requested to adopt the Resolution to amend the Reimbursement Agreement with BSC Holdings, Inc. and authorize the appropriate City Staff to execute all documents to execute the same.

NORTH CAROLINA
GUILFORD COUNTY

**AMENDMENT TO REIMBURSEMENT
AGREEMENT**

THIS AMENDMENT TO REIMBURSEMENT AGREEMENT (“Amendment”), entered into this the ____ day of _____, 2019, between the **CITY OF HIGH POINT**, (“City”) a North Carolina municipal corporation, located at 211 South Hamilton Street, High Point, North Carolina, 27260, and **BSC HOLDINGS, INC.** (“BSC”), a North Carolina corporation, located at 3929 Tinsley Drive, High Point, North Carolina, 27265.

WITNESSETH:

WHEREAS, the City and BSC are Parties to that certain Reimbursement Agreement, dated September 18, 2017 (as amended or modified from time to time, “Reimbursement Agreement”) for a Project (as defined therein); and

WHEREAS, due to changes in the economy resulting in increased costs associated with the Project, the Parties hereto have agreed to amend the Reimbursement Agreement as provided herein; and

WHEREAS, on Monday, June 3, 2019, the High Point City Council adopted a Resolution authorizing the City Manager to enter into an Amendment to Reimbursement Agreement; and

NOW THEREFORE, in consideration of the agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Paragraph 3 is amended as follows:
 3. *The City agrees to reimburse BSC for costs associated with the Improvements in an amount not to exceed ~~\$358,300~~ \$500,000 upon submission and of invoices detailing expenses.*
2. Paragraph 6 is amended as follows:
 6. *The City will reimburse BSC for actual engineering, surveying and stakeout costs, excluding insurance and attorneys fees, for the Improvements in an amount not to exceed ~~\$358,300~~ \$500,000. Said payment shall be made upon the City’s receipt and approval of an invoice submitted to the City by BSC for reimbursement.*

IN WITNESS WHEREOF, CITY and BSC have executed this Amendment as of the day and year first above written.

ATTEST:

BSC HOLDINGS, INC.

Title: _____

Barry Siegal, President

ATTEST:

CITY OF HIGH POINT

City Clerk

Randy McCaslin, Deputy City Manager

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Officer

Approved as to form:

City Attorney

**RESOLUTION TO AUTHORIZE AN AMENDMENT TO REIMBURSEMENT
AGREEMENT WITH BSC HOLDINGS, INC.**

WHEREAS, on September 18, 2017 and in accordance with NCGS § 160A-499, 160A-320, and Title 6, Article E, Section 6-1-101 of the City Ordinances the City Council adopted a Resolution to authorize a Reimbursement Agreement (“Reimbursement Agreement”) with BSC Holdings, Inc. (“BSC”) for a 400 unit mixed residential development (“Project”), and

WHEREAS, the success of the Project requires expansion of infrastructure that is included on the City’s Capital Improvement Plan and it is in the best interest of the City and BSC to jointly provide related improvements, which will serve not only the Project but future development in the area as well; and

WHEREAS, the Reimbursement Agreement called for the City to reimburse BSC in an amount not to exceed \$358,300; and

WHEREAS, due to changes in the economy resulting in increased costs associated with the Project it is necessary to amend the Reimbursement Agreement as provided herein; and

WHEREAS, the cost to the City for the Improvements will not exceed the estimated cost of providing for the municipal infrastructure through either eligible force account qualified labor or through a public contract let pursuant to Article 8, Chapter 143 of the North Carolina General Statutes, or the coordination of separately constructed municipal infrastructure with the associated private development would be impracticable.

NOW, THEREFORE, BE IT RESOLVED: THE CITY COUNCIL OF THE CITY OF HIGH POINT approves the Amendment to Reimbursement Agreement with BSC Holdings, Inc. in an amount not to exceed \$500,000 and authorizes the City Manager or his designee to execute the same.

Adopted this the 3rd day of June, 2019.

Mayor Jay W. Wagner

ATTEST:

Lisa B. Vierling
City Clerk