

WESTERN WAKE PARTNERS

Report to the Policy Advisory Committee (PAC12-08)

Date: December 7, 2011
To: Policy Advisory Committee
From: Technical Advisory Committee (TAC)
Prepared by: Leila Goodwin, P.E., Water Resources Manager, Town of Cary
Subject: Consideration of Development of Western Wake Partners Interim Interlocal Agreement

Background

The Western Wake Partners have entered into the following Interlocal Agreements (ILAs):

	Interlocal Agreement (ILA)	Effective Date
1	Interlocal Agreement for Regional Wastewater Treatment Study	May 1, 2002
2	Amendment No. 1	June 24, 2004
3	Interlocal Agreement for Regional Wastewater Management Facilities Land Acquisition and Preliminary Work	July 28, 2004
4	Amendment No. 1	January 26, 2005
5	Agreement For Design, Construction, Ownership, Management And Operation Of Western Wake Regional Wastewater Management Facilities	August 22, 2005
6	Amendment No. 1	October 27, 2006
7	Amendment No. 2	October 17, 2007
8	Amendment No. 3	May 13, 2008

In September 2010, Holly Springs withdrew from the Partnership, and communications regarding finalizing the terms of withdrawal are ongoing. It is anticipated that there will be an Amendment No. 4 to the *Agreement For Design, Construction, Ownership, Management And Operation Of Western Wake Regional Wastewater Management Facilities* specifying the terms of Holly Springs' withdrawal and terminating that ILA, concurrent with a new ILA between Apex, Cary and Morrisville specifying terms for moving forward.

The purpose of this proposed Interim ILA between Apex, Cary and Morrisville is to clarify some details from the *Agreement For Design, Construction, Ownership, Management And Operation Of Western Wake Regional Wastewater Management Facilities*, as amended, and to specify terms for cost sharing and other items in the interim before the terms of Holly Springs' withdrawal are finalized.

Discussion

The remaining Partners summarized the items for which Holly Springs is responsible in a May 19, 2011 letter. Cary, on behalf of the Partners, has billed Holly Springs for its share of incurred costs for those items; that billing is current and outstanding. The Partners have also identified some items for which Holly Spring will not be charged, including some costs which have been incurred as far back as September 2010. The Partners are in agreement that these items will not be charged to Holly Springs in the future.

To fully account for the terms of Holly Springs' withdrawal, the proposed interim ILA will include the following items at a minimum.

1. Adopt an updated Exhibit A from Amendment No. 4 to the *Agreement For Design, Construction, Ownership, Management And Operation Of Western Wake Regional Wastewater Management Facilities* containing the following:
 - a. Recognize Holly Springs' withdrawal and resulting removal from any ownership shares in land or facilities
 - b. Add and update cost share details for specific items related to the permitting and/or facilities Holly Springs was involved in, consistent with invoicing to Holly Springs
 - c. Update some capital cost estimates as available
 - d. Update facility loading capacity based on actual NPDES permit
 - e. Other technical corrections based on updated information
 - f. Now that Cary and Morrisville have merged utility systems and Cary is serving customers in Morrisville, combine Cary and Morrisville shares and recognize that Morrisville will not own land or facilities, per the merger agreement.
2. Specify terms for Apex providing water service to Cary, on behalf of the Partners, at facility sites for use by contractor(s) during construction and later by Cary during operations.
3. Clarify deed transfer arrangements for land and land interests.

This ILA will allow the following specific actions to move forward:

1. Transfer of the appropriate ownership interest in the Water Reclamation Facility and Effluent Pump Station land to the Town of Apex.
2. Allocation to Apex and Cary of Holly Springs' share of some costs incurred since Holly Springs' withdrawal, with subsequent billing to Apex of their share (preliminary estimate is about \$40,000). This does not include any items which the Partners have invoiced to Holly Springs.
3. Future billing to Apex using the appropriate increased cost shares for items we are no longer billing to Holly Springs (which will prevent future invoice adjustments).
4. Proper setup and billing of water account for service from Apex to Cary at the WRF site.

Recommendation

The TAC recommends that Partner staff work with their respective Town attorneys to develop the above-described interim ILA, and present the ILA to the Town Councils of Apex, Cary and Morrisville for approval and execution.