

Engineering Study for Regional Wastewater System Capacity Options

MEMORANDUM OF UNDERSTANDING (MOU)

FUNDING AGREEMENT

By and Between

TOWN OF APEX

AND

TOWN OF HOLLY SPRINGS

AND

TOWN OF CARY

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made by and between the Town of Apex, a North Carolina municipal corporation (“Apex”), Town of Holly Springs, a North Carolina municipal corporation (“Holly Springs”) and the Town of Cary, a North Carolina municipal corporation (“Cary”), each additionally referred to herein as either a “Party”, and collectively as the “Parties,” with the objective of Apex and Holly Springs reimbursing Cary the expense of obtaining engineering studies to evaluate the feasibility of supporting additional wastewater capacity needs for Apex and Holly Springs at the Western Wake Regional Water Reclamation Facility (“WWRWRF”) and for Holly Springs at the South Cary Water Reclamation Facility (“SCWRF”).

WHEREAS, it is the mutual interest of all Parties to evaluate wastewater regionalization and utilization of resources and personnel from all Parties will maximize the opportunity for a successful program; and

WHEREAS, the Parties have collaborated to develop a scope of services for engineering studies to evaluate the feasibility of supporting additional wastewater capacity needs of Apex and Holly Springs using the existing WWRWRF owned and operated by Cary and Apex, and the SCWRF owned and operated by Cary; and

WHEREAS, N.C.G.S 160A-461 authorizes one or more units of local government to enter into agreements with each other in order to execute any undertaking; and

WHEREAS, for the mutual benefit of the Parties and in the spirit of collaboration, the Parties wish to memorialize their understanding of the intentions and roles of each for the funding of the engineering studies to address long term wastewater capacity needs for Cary, Apex, and Holly Springs.

NOW THEREFORE, the Parties hereby state their intent and understanding as follows:

1. Areas of Collaboration

Apex and Holly Springs have each expressed interest in planning for the future by utilizing treatment capacity at the WWRWRF (Apex and Holly Springs) and/or the SCWRF (Holly Springs). Cary may be able to support this request, and all parties would like to evaluate whether it is feasible.

This feasibility assessment will be conducted through engineering studies (“Studies” or individually “Study”). Two Studies will be commissioned and Cary is the lead agency to

procure the Studies. One will evaluate available wastewater capacity from a technical standpoint, including review of flow forecasts, flow and load characterizations, collection system needs, and permitting requirements and is further described in Attachment A. The second Study will evaluate partnership models and costs as well as regulatory issues and is further described in Attachment B. The Studies will proceed concurrently.

Upon completion of the Studies, the Parties will determine whether there is a mutual interest in moving forward with agreements to provide wastewater treatment capacity for Holly Springs at WWRWRF and/or SCWRF and additional wastewater treatment capacity for Apex at WWRWRF.

The combined Not To Exceed (NTE) cost for the Studies is four hundred thousand dollars (\$400,000.00).

2. Agency Responsibilities

2.1 Joint Responsibilities

The Parties shall mutually agree to work together to do the following:

- a. Participate in meetings with the engineering consultants chosen by Cary to perform the Studies
- b. Provide data requested by engineering consultants necessary to complete the Studies
- c. Review documents generated by engineering consultants

2.2 Town of Cary

- a. Select and contract with engineering consultants to perform the Studies with a scope of work based on and substantially similar to Attachments A and B, with the Cary being responsible for compliance with Article 3D N.C.G.S. § 143.
- b. Manage engineering contracts, schedules, and invoice payments
- c. Manage data collection, project schedule, and coordination between engineering consultants and Parties

2.3 Town of Apex

- a. Reimburse Cary for seventeen percent (17%) of the total cost of the Studies upon completion of the Studies and within thirty (30) days of receipt of an invoice from Cary, up to a maximum of \$68,000 total for both Studies.

2.4 Town of Holly Springs

- a. Reimburse Cary for fifty percent (50%) of the total cost of the Studies, upon completion of the Studies and within thirty (30) days of receipt of an invoice from Cary, up to a maximum of \$200,000.

3. Implementation and Duration of the MOU

This MOU is effective upon full execution by the Parties and will remain in force u for a period of one (1) year from the date of execution by the last Party to sign.

Should Apex or Holly Springs fail to fulfill in a timely and proper manner the obligations under this MOU for any reason, Cary shall have the right to terminate this MOU by giving written notice to Apex and/or Holly Springs and termination will be effective upon receipt. In the event of termination, Apex and Holly Springs will only be obligated to reimburse Cary for their respective percentages (designated in Paragraphs 2.3 and 2.4) of the work completed on the Studies at the time of termination. In the event Cary fails to fulfill its obligations as set forth in this MOU, either Apex or Holly Springs may terminate this MOU and shall have no obligation to reimburse Cary.

4. Meetings

To accomplish these objectives, Parties shall meet at a frequency agreeable to Parties for the purposes of program planning and monitoring, evaluating outcomes, and to review and ensure that each Party is in compliance with this MOU.

5. Notice

All notices or other communications arising hereunder shall be sent to the following:

Town of Cary	Town of Apex	Town of Holly Springs	
Attn: Jamie Revels, P.E., Utilities Director Cary, NC 27512 Phone: 919-469-4303 Email: Jamie.Revels@carync.gov	Attn: Jonathan Jacobs, P.E., Assistant Water Resources Director Phone: 919-372-7506 Email: Jonathan.Jacobs@apexnc.org	Attn: Kendra Parrish, P.E., Executive Director of Utilities and Infrastructure Services Phone: 919-557-3935 Email: Kendra.parrish@hollyspringsnc.gov	

6. Limited Assignment/Delegation

This MOU is applicable to the Parties and their successors and permitted assigns. No Party shall assign or transfer their respective rights or interests in this MOU, nor delegate their respective duties under MOU, without the written consent of the other Parties.

7. Amendment

Any amendment to this MOU must be in writing, signed by all Parties, and executed with the same formality and approvals as this MOU.

8. No Third-Party Beneficiaries

This MOU is not intended for the benefit of any third party. The rights and obligations contained herein belong exclusively to the Parties hereto and shall not confer any rights or remedies upon any person or entity other than the Parties hereto.

9. Jurisdiction. The MOU is made in the State of North Carolina and shall be governed by the substantive provisions of North Carolina law. The Parties agree that any legal action or proceeding with respect to the MOU shall be brought exclusively in the State courts of Wake County, North Carolina.

10. Non-Discrimination

To the extent permitted by law, neither Party, their officers, employees, contractors, agents, successors, or permitted assigns, shall discriminate against any member of a protected class as defined by federal, state, or local law, including Wake County Code of Ordinances Section 34.01.

11. Further Assurances. The Parties agree that they will cooperate to execute and deliver, or cause to be delivered, all such other instruments, and will take all such other actions, as the relevant Party reasonably requests from time to time in order to effectuate the provisions and purposes of the MOU.

12. No Waiver of Immunity. Nothing in the MOU shall be construed to mandate purchase of insurance by any Party pursuant to N.C.G.S. § 160A-485 or to in any way waive any Party's defense of governmental immunity from any cause of action alleged or brought against any Party for any reason if otherwise available as a matter of law. No officer, agent, or employee of any Party shall be subject to any personal liability by reason of the execution of the MOU or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute the MOU in their official capacities only, and not in their individual capacities. This Paragraph shall not relieve any such officer, agent, or employee from the performance of any official duty provided by law.

13. Performance of Government Functions

Nothing contained in this MOU shall be deemed or construed so as to restrict or inhibit any Party's police powers or regulatory authority.

14. Pre-Audit Requirement. If Parties are expending funds pursuant to the terms of this MOU, this MOU has not been fully executed and is not effective until the Preaudit Certificate (if required by N.C.G.S. § 159-28) has been affixed and signed by the appropriate finance officer or deputy finance officer.

15. Execution. The Parties represent and warrant that the individual(s) signing the MOU have the right and authority to do so. The MOU may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same. Electronic signature is a valid method of execution. Cary may convert a signed original of the MOU to an electronic record pursuant to a North Carolina Department of Natural and Cultural Resources (or successor agency) approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the MOU shall be deemed for all purposes to be an original signed MOU.

16. Incorporation of Documents/Complete MOU

This MOU, and any documents incorporated below, represent the entire MOU between the parties and suspend all prior oral or written statements, agreements, or contracts between the Parties.

Specifically incorporated into this MOU are the following attachments, or if not physically attached, are incorporated fully herein by reference:

Attachment A – Scope of Work and Cost Estimate for First Engineering Study provided by HDR Architecture, Inc., subject: “Regional Wastewater Partnerships Evaluation (Project), dated July 21, 2025.

Task 1 – Cary, Apex Baseline Partnership Model – WWRWRF

Task 2 – Cary, Apex, Holly Springs Partnership Model – WWRWRF
Task 3 – Cary, Apex, Holly Springs Partnership Hybrid Model – WWRWRF
Task 4 – Cary, Holly Springs Customer Model – SCWRF
Task 5 – IBT Evaluation and Strategy
Task 6 – Scenario Consensus Workshop
Task 7 – Update Operations, Ownership, and Management Agreement
Task 8 - Project Management

Compensation to the Professional shall be on a lump sum basis for a total contract not to exceed the value of \$200,000.

Attachment B – Scope of Work and Cost Estimate for Second Engineering Study provided by Jacobs Engineering Group, Inc., labeled “Town of Cary – Regional System Optimization Study.”

Task 1 – Forecast of Future Flows
Task 2 – Wastewater Characterization
Task 3 – Forecast of Future Loads
Task 4 – Wastewater Infrastructure Conceptual Plan
Task 5 – Environmental Permitting

Compensation to the Professional shall be on a lump sum basis for a total contract not to exceed the value of \$200,000.

For the purposes of this MOU, Attachment A and Attachment B represent the scope of work to be completed as part of the Studies that are the subject of the MOU. The Parties recognize that Apex and Holly Springs have no contractual relationship with the entities performing the Studies and are not bound by the terms of any agreement between Cary and said entities.

The remainder of this page remains blank intentionally.

IN WITNESS WHEREOF, Parties have executed the foregoing with the signature(s) of their duly authorized Town Manager or Designee.

Town of Apex

By: _____
(signature)

Name:
(typed or printed name)

Title:

Date:

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

Finance Director

Date

Town of Holly Springs

By: _____
(signature)

Name:
(typed or printed name)

Title:

Date:

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

Deputy Finance Officer

Date

Town of Cary

By: _____
(signature)

Name:
(typed or printed name)

Title:

Date:

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

Title:

Date