

Merger Agreement

Merging

The Water and Sewer Utility
Systems

of

Rolesville, North Carolina

And

Raleigh, North Carolina

July 31, 2001

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EXHIBITS

STATE OF NORTH CAROLINA

COUNTY OF WAKE

AGREEMENT

This Agreement is made and entered into by and between the Town of Rolesville, a North Carolina municipal corporation, duly organized and existing under the laws of the State of North Carolina, hereinafter referred to as “Rolesville”, and the City of Raleigh, a North Carolina municipal corporation, duly organized and existing under the laws of the State of North Carolina, hereinafter referred to as “Raleigh”.

The purposes of this Agreement are to:

- Assure the continued provision of high quality, reliable, economical, safe and sanitary water and sewer service within the present and future corporate limits and Urban Service Area limits of Rolesville;
- Provide for the orderly and permanent transfer of responsibility for the ownership, construction, operation, maintenance, management, and financing of Rolesville’s water and sewer utility system from Rolesville to Raleigh, and;
- Transfer the managerial, operational, and financial responsibility of operating, maintaining, and expanding the water and sewer utility systems serving the present and future corporate limits and Urban Service Area limits of Rolesville from Rolesville to Raleigh.

WHEREAS, Article 20, Interlocal Cooperation of North Carolina General Statutes 160A authorizes and empowers any units of local government to enter into interlocal agreements for the ownership, construction, operation, maintenance, management, and financing of all or portions of water and sewer utility systems within or outside the corporate limits of those units of local government;

WHEREAS, Rolesville owns, operates, and maintains water and sewer utility systems within and outside its corporate limits;

WHEREAS, Rolesville desires to transfer its water and sewer utility systems to Raleigh in accordance with the terms and conditions hereinafter stated;

WHEREAS, Raleigh agrees to assume full responsibility for the provision of water and sewer services in Rolesville, including responsibility for Rolesville’s water and sewer utility systems and related equipment and property rights;

WHEREAS, Raleigh further agrees to operate, maintain and expand said water and sewer systems to accommodate planned growth and development within Rolesville’s planning and zoning jurisdiction in accordance with the terms and conditions hereinafter stated;

NOW, THEREFORE, for the considerations hereinafter stated, the parties do agree as follows:

- a) This Agreement shall be perpetual. Rolesville and Raleigh hereby agree that such perpetual duration is reasonable and necessary in light of the purposes of this Agreement.

- b) No joint agency is established by this Agreement.
- c) Raleigh shall have the sole responsibility and authority to appoint or otherwise employ the personnel necessary for the implementation of this Agreement.
- d) The responsibility for financing the construction, operation and maintenance of the merged water and sewer system and any extensions thereof shall be in accordance with the terms of this Agreement. Raleigh shall be entitled to the receipt of all revenues from the merged water and sewer system and any extensions thereof.
- e) Rolesville agrees and grants the authority for appropriate employees of Raleigh to work and act in Rolesville as necessary to carry out the purposes of this agreement as appropriate under the ordinances and regulations of both Raleigh and Rolesville.
- f) Rolesville shall transfer to Raleigh and its assignees or successors, and Raleigh and its assignees and successors shall receive from Rolesville, in accordance with the terms and conditions set forth in this Agreement:
 - i) All pipes, water lines, hydrants, sewer lines, pump stations, force mains, mains, meters, meter boxes, and service laterals, elevated water tanks, maintenance facilities, and all other appurtenances normally associated with, and owned by Rolesville, and presently in use within Rolesville's water and sewer system (See Exhibit A);
 - ii) All of Rolesville's rights, titles and interests in land, easements, and encroachment agreements necessary to own and operate Rolesville's water and sewer systems. All of the property and rights described above shall be hereafter referred to as "the Property" (See Exhibit B);
 - iii) All property currently used in the operation of the water and sewer system, but that is to be retained by Rolesville, will be identified prior to the Transfer Date as defined in this Agreement (See Exhibit C);
- g) Raleigh shall have the right to exercise its power of eminent domain within the current and future municipal and planning limits of Rolesville for activities necessary to fulfill Raleigh's water and sewer service obligations defined in this Agreement; and
- h) Cost of the transfer of ownership of the systems from Rolesville to Raleigh will be borne by Raleigh, and will be recovered through the water and sewer rates, fees, and charges that will be charged to Rolesville customers as set forth in this Agreement.

1.0 Definitions

The following words and phrases are defined as set forth below when used in this Agreement, unless a contrary meaning is clearly required by the context in which the word or phrase is used:

1.1 Effective Date: The date on which all of this Agreement is approved and signed by all parties.

1.2 Transfer Date or Closing Date: The date on which title or leasehold to the subject water and sewer system passes from Rolesville to Raleigh, which shall be a reasonable time after the Effective Date of this Agreement.

1.3 Systems: The real and personal property comprising Rolesville's water and sewer system which is to be transferred to Raleigh.

1.4 Inside City Rate(s): The rate(s) charged by Raleigh to the water and sewer customers inside the corporate limits of Raleigh.

1.5 Outside City Rate(s): The rate(s) charged by Raleigh to the water and sewer customers outside the corporate limits of Raleigh.

2.0 Transfer Date

The City Manager of Raleigh and the Town Manager of Rolesville, or their designees, shall be responsible for determining all implementation details related to this Agreement not specifically addressed in this Agreement. The Transfer Date for this Agreement is January 1, 2002. The Transfer Date shall not be delayed unreasonably by either party.

2.1 (Reserved)

2.2 (Reserved)

3.0 Responsibility for Merged System

Upon the Transfer Date, Raleigh shall assume immediate and sole duty and responsibility for financing; operating; maintaining; improving; and expanding the water and sewer systems serving Rolesville's existing and future corporate limits and Urban Services Area. Rolesville water and sewer system planning activities will be performed in accordance with the terms of Section 3.1 of this Agreement. Prior to the Transfer Date, Rolesville will be responsible for the operation and maintenance of Rolesville's water and sewer system. During the period after the Effective Date, but prior to the Transfer Date, Rolesville will be responsible for the expansions to the Rolesville water and sewer system, but will solicit participation from City of Raleigh staff regarding design standards and utility operations planning, to ensure that future expansions are in accordance with City of Raleigh policies, standards, and procedures. After the Transfer Date, Rolesville's water and sewer system shall be fully incorporated into the water and sewer system operated and maintained by Raleigh. Said duty and responsibility shall be in accordance with current and future policies, standards, and procedures of Raleigh, and shall be applied in the same extent and in the same manner as applied to other inside city customers of Raleigh. Said duty shall involve the input and recommendations from the Water and Sewer Utility Advisory Committee addressed in Section 3.1 below.

3.1 Water and Sewer Utility Advisory Committee

Prior to the Transfer Date, a permanent Water and Sewer Utility Advisory Committee (UAC) will be established and shall meet periodically at a frequency to be determined by the City Manager of Raleigh, the Town Manager of Garner and the Town Manager of Rolesville to review and develop planning recommendations for the upgrade, expansion, and extension of water and sewer utility services in Rolesville service areas. The Utility Advisory Committee will periodically report its findings and recommendations to the City Manager of Raleigh, Town Manager of Garner and Town Manager of Rolesville. The ultimate responsibility for the operation of the merged water and sewer system shall be the City of Raleigh. The role of the Utility Advisory Committee will be limited to an advisory role. The composition of the Utility Advisory Committee will be as follows:

- Two members appointed by the Raleigh City Manager

- Two members appointed by the Garner Town Manager
- Two members appointed by the Rolesville Town Manager
- Planning Director, Wake County

As other utilities join the merged water and sewer utility, additional members may be added to the Utility Advisory Committee.

3.2 Name of Merged Water and Sewer Utility

The name of the merged water and sewer utility will be the City of Raleigh Public Utilities Department.

3.3 Right to Operate

Rolesville hereby irrevocably grants Raleigh the right to design, construct, operate, maintain and perform all related activities required to operate, maintain, expand, upgrade and improve Rolesville's existing water and sewer utility system in accordance with Raleigh's water and sewer utility system standards and policies for operation and performance, level of service, reliability, and redundancy. Said Right to Operate includes the encroachment authority for Raleigh to operate in all public rights-of-way over which Rolesville has the sole authority or joint authority with the North Carolina Department of Transportation. Said water and sewer utility system standards and policies shall be applied in Rolesville to the same extent and in the same manner as applied to other customers of Raleigh's water and sewer utility system.

In all instances, Raleigh or its authorized contractor shall be required to restore and repair any street or other property of Rolesville upon the completion of any construction, operation, maintenance, replacement, improvement or related activity causing damage thereto. Said restoration or repair shall be to the standards acceptable to Rolesville.

3.4 System Upgrades and Improvements

Raleigh shall undertake and complete all activities relating to the design; construction; startup; and operation of the system upgrade and improvement projects agreed upon as a part of this Agreement and listed in Exhibit D. Said upgrade and improvement projects will be undertaken and completed by Raleigh to upgrade and improve Rolesville's water and sewer system in accordance with Raleigh's water and sewer utility system standards for operation and performance, level of service, reliability, and redundancy. Raleigh may, at its discretion, undertake alternative upgrade and improvement projects that accomplish the same purposes as the projects agreed upon.

Any upgrades by Raleigh beyond those outlined in Exhibit D will be accomplished in accordance with Raleigh's normal operations and capital program prioritization process. Raleigh will notify in writing, and confer with representatives of Rolesville's governing Board and the UAC, before final adoption of any upgrade and improvement projects beyond those outlined in Exhibit D, any water and sewer utility system expansion program, or water and sewer system master plan or capital improvements plan affecting the water and sewer systems within the corporate or Urban Service Area limits of Rolesville.

The costs for the upgrade and improvement projects will be recovered from customers located in Rolesville's municipal corporate and Urban Services Area limits through the schedule of rates, fees and charges as described elsewhere in this Agreement. Cost-

sharing for projects of mutual benefit to Rolesville and other municipalities will be reviewed on a case-by-case basis.

3.5 Notices of Violation

In the event that fines or penalties are levied by the State of North Carolina for violation of Rolesville water or wastewater system permits following the Transfer Date, payment of fines for notices of violations will be paid by Raleigh. Any fines or penalties for actions prior to the Transfer Date will be paid completely by the Town of Rolesville.

3.6 Rates, Fees, Charges, and Penalties

Raleigh shall have the sole responsibility and authority to establish and set rates, fees, charges, and penalties necessary for the operation, maintenance, upgrade, improvement, and expansion of the water and sewer utility system. Subject to the provisions hereof, it is intended that the expansion, upgrade, improvement, operation and maintenance of the water and sewer system shall be on a self-sustaining basis. All revenues of Raleigh water and sewer utility shall be used exclusively by the water and sewer utility fund for direct and indirect costs of the water and sewer utility operations.. In maintaining and operating the water and sewer system, Raleigh will:

- 1) Set and charge reasonable rates, based on cost of service principles, to all classes of users of the water and sewer system;
- 2) Operate and maintain the water and sewer system at the lowest possible rates, consistent with Raleigh's obligation and commitment to provide proper, efficient, and environmentally sound water and sewer services now and in the future;
- 3) Use the revenues of the water and sewer system for:
 - a) The maintenance and operation of the water and sewer system,
 - b) The payment of debt service or other debt instruments issued therefore, and the funding of resources in connection with the issuance of such debt for the water and sewer system,
 - c) The expansion, extension, upgrade, and improvement of the water and sewer system and such other purposes as Raleigh may deem proper for the operation of the water and sewer system,
 - d) Watershed protection activities, or
 - e) Other lawful public purposes.

3.7 Schedules of Rates, Fees, Charges, and Penalties

Raleigh shall apply to customers located in Rolesville's corporate limits and Urban Services Area a schedule of rates, fees and charges sufficient to recover all of the costs, as determined by Raleigh, required to accomplish the water and sewer utility merger between Raleigh and Rolesville. Said costs will include, but not be limited to, capital upgrades and improvements, administration and other transfer costs directly related to the water and sewer utility merger.

Capital cost estimates for system upgrade and improvement projects are listed in Exhibit D. It is understood that the actual costs for the upgrade and improvement projects may vary from the estimated costs presented in Exhibit D because of changes in scope, site

conditions, schedule or other factors beyond the control of Raleigh. Potential cost increases resulting from factors beyond the control of Raleigh will be recovered through the schedules of rates, fees and charges applied to customers in the Rolesville service area.

The cost recovery program for the water and sewer utility merger will be phased over a 10-year period. The schedule of estimated revenues and expenses for the Rolesville service area is presented in Exhibit E. The sequence of rates, fees and charges to be applied to customers in the Rolesville area during this period is scheduled as follows:

- 1) For the period extending from the Transfer Date to December 31, 2011, the consumptive retail rate for Rolesville customers will remain the same as in effect on the Transfer Date.
- 2) For the period extending from January 1, 2007 to December 31, 2011, a surcharge may be applied to the consumptive retail rate of Rolesville customers if:
 - a) The actual capital costs, and associated annual debt service, exceed the estimated capital costs for the upgrade and improvement projects identified in Exhibit D, or
 - b) The actual revenue from the Rolesville service area is insufficient to recover all of the merger-related costs within the 10-year period.

If a surcharge is required, then the surcharge will apply for a future period to be determined based upon the recovery period projected as of January 1, 2007.

- 3) After January 1, 2012, the consumptive retail rate for Rolesville customers will be same as for Raleigh customers, subject to any continuing surcharge that may be added to the rates in subparagraph 2 above.
- 4) If revenues collected from the Rolesville service area during the 10-year period exceed the merger-related costs as defined by Raleigh, then Raleigh may offer to apply the excess revenues toward the purchase of additional water and/or sewer capacity allocations beyond the agreed upon indexes specified in Section 5.1. The quantity of additional water and/or sewer capacity available under this provision will be determined by comparing the excess revenues collected with Raleigh's back-capital fees and charges in effect on the Transfer Date. Raleigh's back-capital fees and charges are referenced in Exhibit E.

Rolesville's non-consumption fees and charges related to utility service, such as acreage fees, capacity fees, frontage fees, Neuse River nitrogen fees and utility connection ("tap") charges will continue to be assessed and collected by the Rolesville customer service center, and remitted to Raleigh, until all said merger costs have been fully recovered.

Once all said merger costs have been fully recovered, Raleigh shall apply rates and non-consumption fees and charges to customers located inside the municipal limits of Rolesville that are equivalent to those that are being charged to customers inside the municipal limits of Raleigh, and shall apply rates and non-consumption fees and charges to customers located outside the municipal limits of Rolesville that are equivalent to those that are being charged to customers outside the municipal limits of Raleigh. During the 10-year period from January 1, 2002 through December 31, 2011, Raleigh shall provide Rolesville with an annual statement summarizing the status of Rolesville utility revenues and merger costs as compared to original estimates.

Raleigh will provide at least thirty (30) days written notice to Rolesville customers prior to adopting any revisions to the schedule of rates, fees, and charges.

4.0 Rolesville Existing Facilities and Property

Rolesville's water and sewer utility system provides water and sewer service to approximately 950 persons through approximately 375 accounts. Rolesville's water distribution system consists of approximately 11 miles of water mains and one 75,000-gallon elevated storage tank. Rolesville's water is supplied either by contract with Wake Forest or from Rolesville's network of water supply wells.

Rolesville's wastewater management system consists of approximately 11 miles of gravity and pressure mains and one wastewater-pumping station. Rolesville has a contract with Raleigh to treat 0.450 MGD at Raleigh's Neuse River WWTP.

4.1 Representation and Warranties by Rolesville

Rolesville makes the following representations and warranties to Raleigh:

- 1) Rolesville is the sole owner of all water and sewer lines, pipes, meters, valves, meter boxes, laterals, and any other property transferred to Raleigh under the terms and conditions of this Agreement, and
- 2) Said facilities, property, land, equipment, information, and data is free and clear of all encumbrances (except as it may be included in the full, faith and credit of Rolesville as a part of existing bonded indebtedness or loans). In the event that Rolesville's bonds have provisions that do not allow the sale of the systems while bonds are outstanding, Rolesville and Raleigh agree to enter into a long term leasing arrangement for the portions of the system that are affected until such time as the bonds are retired. Upon retirement of the bonds, the full ownership transfer will take place.

4.2 Property Transfer

Upon the Transfer Date of this Agreement, a Bill of Sale shall be executed by Rolesville to transfer ownership of all facilities, property, land, equipment, financial assets, information, and data subject to this Agreement to Raleigh. Such documents shall be sufficient to convey to Raleigh all of Rolesville's right, title, and interest in Rolesville's water and sewer system, including easements and rights-of-way, whether or not recorded. Said rights-of-way shall include the right to operate and maintain the subject water and sewer system within any public streets within Rolesville. Any documents needed to memorialize this passage of title shall not be required to contain any warranties of condition or title, except as expressly set forth herein. A quit-claim deed shall be executed by Rolesville to convey all interests in real property and improvements thereto which are subject to this Agreement.

Rolesville shall cooperate with Raleigh in establishing title to any portion of Rolesville's water and sewer system where ownership may be contested.

4.3 Easements and Encroachments

Rolesville has fully-executed and properly recorded easements and encroachment agreements for portions of Rolesville's water and sewer utility system. As a condition of this Agreement, a complete list of all recorded easements and encroachment agreements will be provided to Raleigh. To the extent possible, all easements for Rolesville's water and sewer utility system shall be conveyed by Rolesville to Raleigh by an appropriate instrument suitable for recording in the Office of the Register of Deeds for Wake County, North Carolina. As a condition of this Agreement, Rolesville will provide Raleigh with copies of any encroachment agreements it has with the North Carolina Department of Transportation and with any other utility companies (See Exhibit B).

Rolesville has some facilities installed on the properties of others for which it does not have express easements or encroachment agreements, and some facilities installed in streets and rights-of-way for which it has no encroachment agreements. In the event a landowner on whose land such a facility exists contests Raleigh's right to maintain such facilities, Raleigh shall notify Rolesville in writing and Rolesville shall be responsible to obtain at its expense the necessary easement, encroachment agreements or fee simple title across said land either by negotiation or by eminent domain. After Rolesville has obtained such easement or fee simple title, it shall transfer ownership thereof to Raleigh. Any reasonable and direct expense borne by Raleigh in resolution of these disputed easements shall be paid by Rolesville, and Rolesville shall also make adequate reservation for the necessary rights-of-way for all planned water and sewer facilities prior to closing any street. If Rolesville fails to comply with the provisions of this paragraph, Rolesville shall reimburse Raleigh in full for all expenses incurred in acquiring the necessary rights-of-way by purchase or condemnation.

4.4 Existing Water and Sewer Capacity Allocations

As of June 12, 2001, Rolesville has an interim (non-permanent) wastewater treatment allocation from Raleigh for 0.450 million gallons per day (mgd) for average daily demand (ADD) flows. As of the Transfer Date, Rolesville will have an allocation of 0.375 mgd for ADD wastewater flows.

As of May 1, 2001, Rolesville has a water supply allocation from the Town of Wake Forest for 0.15 mgd for maximum daily demand flows. Under this Agreement between Raleigh and Rolesville, a water supply allocation from Raleigh of 0.15 mgd for maximum daily demand flows will be provided to Rolesville, as credit for release of its Wake Forest allocation. As of the Transfer Date, Rolesville will have a total water supply allocation from Raleigh of 0.36 mgd for average day water use and 0.45 mgd for peak day water use.

Raleigh will construct additional wastewater and water supply capacity as necessary to accommodate new growth and development within the corporate limits and Urban Service Area of Rolesville. Said additional wastewater and water supply capacity will be financed by Raleigh using revenues generated by Raleigh's schedule of rates, fees, and charges, or other debt instruments as determined by Raleigh.

4.5 Financial Assets and Closeout

The financial records of the Town of Rolesville water and sewer enterprise fund will be closed as of the Transfer Date of this Agreement. As of this closeout, the full amount of the Rolesville utility fund equity will be transferred to the City of Raleigh to be used for payments of water/wastewater debt service costs or capital improvements for the Rolesville system. The accounting for all other asset and liability accounts will transfer at closeout to the Raleigh water and sewer enterprise fund, subject to audit verification by the Raleigh Internal Audits Division and an independent auditor. Rolesville shall write-off all inactive accounts considered uncollectible and adjust other accounts to a current status prior to Raleigh's assumption of the financial accounts.

4.6 Existing Rolesville Water Supply Wells

The existing Town of Rolesville water supply wells shall be capped by Raleigh following the Transfer Date, following Raleigh's determination that sufficient water supply can be provided to Rolesville by other means to compensate for the well production. The well capping shall

occur after direct interconnections between Raleigh and Rolesville are completed and direct water delivery from Raleigh has begun.

5.0 Expansion and Extension of Water and Sewer Services

Raleigh shall provide, maintain, and extend the water and sewer systems and facilities as may be required under applicable laws and regulations so as to serve present and future demands, and in particular so as not to impede the orderly growth and development of Rolesville, except as provided in Paragraph 5.1 below. Raleigh shall not practice or permit any discrimination against Rolesville in the provision of such services based upon location of the point of service within Rolesville or its Urban Services Area.

5.1 Growth and Development Index

The City of Raleigh will provide water and sewer services to customers in the Town of Rolesville within the following parameters:

- 1) For the period extending from the Transfer Date to December 31, 2006, the total wastewater flow allocation for Rolesville will be limited to 0.375 MGD average day wastewater flow, and the average day water use and peak day water use allocations will be limited to 0.36 MGD and 0.45 MGD, respectively.
- 2) For the period extending from January 1, 2007 to December 31, 2015, the annual growth rate in average day water use, peak day water use, and average day wastewater flow will be limited to 4 percent per year, compounded upon the prior year's allocation.
- 3) For the period extending from January 1, 2016 to December 31, 2025, the annual growth in average day water use, peak day water use and average day wastewater flow will be limited to 3 percent, compounded upon the prior year's allocation.
- 4) For the period extending beyond January 1, 2026, the annual growth in average day water demands, peak day water demands and average day wastewater flow will be the same as for the City of Raleigh service area as determined by the Raleigh City Council.

The calculation of Rolesville's water and wastewater flow allocation will be based on the summation of estimated flows for new connection permits and actual flows metered for the Rolesville service area. An exceedance of the prescribed growth rate in any given year will be allowed, provided it is reconciled within the following 2 years. For example, during the period 2006 to 2015, the annual growth rate limit is 4 percent. Annual growth over a three consecutive year period may be 6 percent (year 1), 2 percent (year 2) and 4 percent (year 3), equivalent to an average 4 percent growth rate. Because the growth exceedance in year 1 was reconciled to the prescribed average within the following 2 years, the overall growth for this period would not violate this agreement.

These growth levels would be subject to modification by the City of Raleigh if problems are encountered with the implementation of treatment plant expansions. If such is necessary, Rolesville's water and sewer growth capacity would be no less than 1 percent of the total treatment capacity of the Raleigh system for water and for wastewater at that time.

The City of Raleigh may offer the town of Rolesville additional water and sewer capacity beyond the agreed-upon indexes, on a case-by-case basis, to accommodate major industrial or commercial projects that elect to locate within Rolesville's Urban Services Area and provide benefits to both Raleigh and Rolesville.

5.2 Requests for Service

Upon the Transfer Date, all future requests for new service connections will be made to Raleigh. Request for new services that require extensions will be first presented to Rolesville to assure all zoning and land use issues have been addressed then forwarded to Raleigh for approval of water and sewer plans. Both Rolesville and Raleigh, in conjunction with the UAC, will provide information to customers and potential customers regarding details of service. Raleigh agrees to provide existing and future water and sewer customers located within Rolesville's corporate or Urban Services Area limits, service of a quality comparable to the quality and quantity of service provided to water and sewer customers within the municipal boundaries of Raleigh. Raleigh specifically agrees that the geographical location of the water and sewer customers in Rolesville or in its Urban Services Area shall not have any substantial effect on the quality of service or timing of repairs to be made by Raleigh.

5.3 Developer-Requested Extensions to the System

Subject to the provisions of this Agreement, extensions of the subject water and sewer system that are undertaken by third-party developers shall be made under the policies published and used by Raleigh, and as may be amended from time to time. Said policies shall be uniform throughout Raleigh's water and sewer system, including those areas affected by this Agreement. Raleigh may, at its discretion, make changes to the extension policies as Raleigh determines to be appropriate. Said changes shall apply to all portions of the water and sewer system operated and maintained by Raleigh, including those areas located in Rolesville's corporate and Urban Services Area limits.

For water and sewer extensions outside of Rolesville's municipal corporate limits, all applicable water and sewer extension policies that apply outside of Raleigh's corporate municipal limits will apply.

Any third-party request to Raleigh for water and sewer service extensions in Rolesville's corporate limits, extra-territorial jurisdiction (ETJ), or Urban Services Area (USA) will require prior written approval by Rolesville's governing board before the service can be provided by Raleigh.

Utility fees and charges for new Rolesville customers may not be paid by Rolesville or any other public entity, either directly or indirectly, as a part of an economic development program for Rolesville. Violation of this condition will constitute a breach of the Agreement.

Approval for request for service or extension under provisions of this section will not be unreasonably withheld by either Raleigh or Rolesville.

5.4 Rolesville-Requested Extensions to the System

Rolesville-requested extensions to the merged water and sewer system or extensions thereof required by Rolesville beyond those included in the Raleigh Capital Improvement Program, shall be financed by Rolesville and shall be accomplished by contract between Rolesville and Raleigh. Reasonable notice to proceed with such extensions will be provided to Raleigh by Rolesville, such that applicable time limitations can be met. However, under no circumstances shall Raleigh be liable to Rolesville for the payment of damages, penalties, fines or any other monetary recovery as a result of any failure to satisfy such time limitations for Rolesville-requested extensions. For extensions required due to annexation, annexation plans shall be submitted by Rolesville to Raleigh to evaluate the feasibility thereof under then existing conditions.

Raleigh shall reimburse Rolesville for costs associated with extensions by Rolesville in accordance with established extension and reimbursement procedures applicable to developers and customers of Raleigh.

5.5 Annexations

Any annexation considerations will be resolved based on the existing annexation agreements between Raleigh and Rolesville. Prior to approval of extension of service to property outside the corporate limits of Rolesville, Rolesville must require application for annexation into Rolesville's municipal corporate limits. Rolesville must require application for annexation and act on an annexation petition prior to approval to add new water and sewer customers into Rolesville limits.

Raleigh will provide water and sewer services to areas that cannot be annexed, only by exceptions to be considered on a case-by-case basis, to address specific health-related concerns. All required annexations must proceed within a reasonable amount of time of committing to the provision of water and sewer service.

6.0 Employee Transfer

Rolesville's water and sewer utility system has no full-time employees, but the utility funds one-half of the salary and benefits for a permanent customer service representative stationed at the Rolesville Town Hall. The customer service representative will remain a Town of Rolesville employee. Raleigh will utilize this position for operation of a satellite customer service center at the Rolesville Town Hall in accordance with the services described in Section 11 of this Agreement.

7.0 Records Transfer

Rolesville shall transfer to Raleigh all available reproducible and electronic copies of any and all records, data, information, and models arising from the construction, operation and maintenance of Rolesville's water and sewer utility system and any other related activity, including projects in progress, and including, but not limited to, the following:

- 1) Construction contracts, drawings, maps, and all other related documents evidencing the condition or location of any portion of the subject water and sewer systems including such documents as may be in the possession of any engineer or other consultant of Rolesville;
- 2) Billing, collection and payment records on all present customers of the subject water and sewer systems;
- 3) An accurate tabulation or listing of all actual service locations in the Rolesville system to be transferred to Raleigh from Rolesville, to include:
 - a) Address - Number and Street;
 - b) Account Name (if active);
 - c) Billing Address for Each Account Number;
 - d) Account Numbers and all meter reading books and the history of all accounts for the past twelve (12) months;
 - e) One Year's Account History;

- f) Meter Location Description;
- 4) Contracts or agreements for the supply of equipment, materials, supplies, and products;
- 5) Pending applications for water and sewer service;
- 6) Contracts or agreements to provide water and or sewer service currently in effect;
- 7) Receipts, accounts and other records of deposits made by all present and past customers of the subject water and sewer systems;
- 8) Any and all warranty information on any facilities, property, land, and equipment transferred to Raleigh pursuant to this Agreement;
- 9) Repair, maintenance, trouble, and emergency response records for all portions of Rolesville's water and sewer systems;
- 10) Any and all notices of violation, legal actions, and lawsuits pertaining to Rolesville's water and sewer system ;
- 11) Plans, permits, reports, specifications, surveys, etc., for water and sewer facilities and operations;
- 12) Number and locations of all unmetered services;
- 13) Copies of all water and sewer system maps;
- 14) Copies of all easements;
- 15) Copies of all encroachment agreements;
- 16) Identification of all inside Rolesville customers;
- 17) Identification of all outside Rolesville customers;
- 18) Record of all assessments for system extensions;
- 19) Identification of all taps for which payment has been made;
- 20) Identification of all backflow prevention installations;
- 21) Identification of all Pretreatment Program installations;
- 22) Copies of such records as are necessary to inform Raleigh of the location of all facilities of Rolesville for other utility operations;
- 23) Any other information, data, and records pertaining to Rolesville's water and sewer utility;
- 24) Accounts receivable records; and,
- 25) Accounts payable records.

Rolesville agrees that within a reasonable time after the Transfer Date, Rolesville shall submit to Raleigh such accounting, commercial, engineering, planning, personnel, and facility records pertaining to Rolesville's water and sewer utility system. Rolesville may make copies of said materials for Rolesville's records and archives. Prior to the Transfer Date, the City Manager of Raleigh and Town Manager of Rolesville, or their designees, shall

determine mutually satisfactory administrative details for the transfer of the above-referenced records.

8.0 Customer Transfer

As of the Transfer Date, all customers and users of Rolesville's water and sewer system shall become subject to all rules, regulations and ordinances of Raleigh as the same apply to all users and customers of the water and sewer system of Raleigh, and as same are now or may hereafter be amended. Such rules, regulations and ordinances and schedule of rates, fees, charges and penalties shall constitute a part of the Agreement between Raleigh and any customer or user of the subject water and sewer system and any extensions thereof for the provision of water and sewer service.

A team comprised of Raleigh and Rolesville staff shall develop a seamless transfer of customer accounts at Transfer Date in order to provide continuity of account activity after the merger. All accounting after the Transfer Date shall be made within the Raleigh utility enterprise fund.

8.1 Customer Deposits

Following the Transfer Date, Rolesville, under the direction of the Rolesville Town Manager or their designee, shall refund deposits by checks to be mailed to its customers..

8.2 Billing Cycles

The billing cycle for Rolesville water and sewer customers is currently a monthly cycle. The billing cycle for Raleigh water and sewer customers is currently a bi-monthly (every two months) cycle. As of the Transfer Date of this Agreement, Raleigh reserves the right to adjust the billing cycle for Rolesville water and sewer customers to a bi-monthly cycle at a time that Raleigh deems appropriate. Raleigh will make a good-faith effort to implement the change to a bi-monthly billing cycle after a 5-month customer notification and education program by Rolesville and Raleigh, to begin immediately following the Effective Date of this Agreement.

8.3 Water Meter Readings

As of the Effective Date, Rolesville's water meters measure water volume in units of 1,000 gallons, and Raleigh's water meters measure water volume in units of 100 cubic feet. At the Transfer Date, Raleigh shall assume all responsibility for reading all customer meters and for preparation of water and sewer bills, and water and sewer customers in Rolesville will be billed for water and sewer service based on 100 cubic feet units. Rolesville's gallon unit water meters shall be replaced with cubic feet water meters by Raleigh as part of the System Upgrades and Improvements identified in Exhibit D. If the replacement of Rolesville's water meters cannot be completed prior to the initial collection of water meter readings by Raleigh staff, Raleigh will collect water meter readings from Rolesville customers using 1,000 gallon units, and Raleigh's water billing system will convert the readings to 100 cubic feet units for the purposes of producing water and sewer bills.

The transition of meter readings will be coordinated by a joint implementation team.

9.0 Bonded Indebtedness

Raleigh agrees to pay Rolesville all amounts necessary to enable Rolesville to make all debt service payments when due and payable on all existing outstanding bonded indebtedness of Rolesville for water and sewer facilities covered under this Agreement. The payments

required to be made in accordance with this provision of the Agreement shall be made in a timely manner, and Raleigh's obligation hereunder shall be a continuing one until all outstanding bonded indebtedness of Rolesville borrowed for such purposes shall have been paid in full. A statement of Rolesville's outstanding bonded indebtedness and a schedule of the debt service to be made pursuant to this provision of the Agreement shall be submitted to Raleigh prior to the Transfer Date of this Agreement (See Exhibit F). Rolesville agrees to cooperate with Raleigh in determining opportunities for early retirement or refinancing of any of the outstanding debt, when such adjustments are permitted by the bonding agencies, and Raleigh retains the right to exercise an option of debt refinancing or retirement if costs to the water and sewer utility can be lowered as a result.

9.1 Wake County Acreage Fee Reimbursements

Rolesville has active reimbursement agreements in effect with the County of Wake, North Carolina. Pursuant to this agreement, acreage fees are to be collected for each property that connects to, and directly abuts, an agreement project. If the reimbursement requirement is not waived by Wake County, Raleigh agrees to pay Rolesville all amounts necessary from acreage fees to enable Rolesville to make all debt service payments when due and payable under the reimbursement agreements of Rolesville for water and sewer facilities covered under this Agreement, until such reimbursement agreements are repaid in full. Rolesville shall advise Raleigh on an annual basis regarding the status of the Wake County reimbursement agreements.

10.0 Prior Agreements

All prior agreements between Rolesville and Raleigh pertaining to water and sewer services are rescinded as of the Transfer Date.

10.1 Existing Commitments

Rolesville has certain commitments to developers of residential and non-residential projects inside and outside the corporate boundaries of Rolesville.

Rolesville will install the meters, set the boxes, and collect tap fees in all of such developments to fulfill its existing commitments prior to Transfer Date. Such completed services shall become a part of the property to be conveyed herein from Rolesville to Raleigh. If any commitments are left outstanding as of the Transfer Date, Rolesville agrees to accept full financial responsibility to resolve the commitment.

10.2 Existing Agreements

Raleigh shall assume and honor all existing developer (as of the Transfer Date) contracts previously entered into by Rolesville concerning Rolesville's water and sewer system; provided that such contracts that require expenditure of Raleigh funds shall be reimbursed by Rolesville in full within thirty (30) days after receipt of an invoice from Raleigh. Any such contract or agreement with third parties entered into by Rolesville between the Effective Date and the Transfer Date shall require approval by Raleigh.

Rolesville has existing agreements relating to water and sewer services (as of the Effective Date) with the Town of Wake Forest and Five County Utilities, Incorporated. Rolesville shall provide notice to both entities regarding this agreement and Rolesville's intent to rescind its agreements with Wake Forest and Five County Utilities, Incorporated, as of the Transfer

Date. However, Raleigh at its option may elect to continue these agreements through the current terms, subject to the consent of the contracting parties.

10.3 Discriminatory Agreement Disclaimer

No existing special, discriminatory agreements with specific customers will be continued, honored, or assumed by Raleigh.

Rolesville represents and warrants to Raleigh that there are no discriminatory agreements between Rolesville and any customer or user of Rolesville's water and sewer system which will nor may survive this Agreement and be binding upon Raleigh. For purposes of this Agreement, a discriminatory agreement is any agreement, contract or other understanding between Rolesville and any customer or user of Rolesville's water and sewer system that provides that:

1. Water and sewer service be extended and provided in a different manner than such service is extended and provided to the remaining customers or users of Rolesville's water and sewer system as to quality, quantity, or any other aspect of extending and providing such service;
2. Water and sewer service be extended and provided upon the payment of a different schedule of rates, fees, charges, or penalties than is imposed upon the remaining customers or users of Rolesville's water and sewer system;
3. Water and sewer service be extended and provided at a different cost or schedule for reimbursement of costs or any other aspect of paying for the extension and provision of water and sewer service than is imposed upon the remaining customers or users of Rolesville's water and sewer system.

In the event that an unlawful discriminatory agreement exists and survives this Agreement, and is determined to be binding upon Raleigh, Rolesville shall indemnify and hold Raleigh harmless from any and all demands, claims, or actions (including the reasonable costs, expenses and attorney fees incurred by Raleigh), of such discriminatory agreement. Further, Rolesville shall indemnify and hold Raleigh harmless from any and all demands, claims, or actions, without regard to the relief sought or awarded and without regard to whether the claim, demand or action is raised by a party to the discriminatory agreement.

11.0 Contracted Services Between Raleigh and Rolesville

Raleigh will make separate agreement with Rolesville for Rolesville's operation of a Raleigh Satellite Customer Service Center, beginning on the Transfer Date. Rolesville will collect payments for City of Raleigh services and tax revenues, including but not limited to water and sewer bills. Rolesville will also be accessible by telephone for Rolesville residents for billing or service-related inquiries. Obligations of Rolesville and Raleigh for the operation of the Satellite Customer Service Center shall be as specified in the referenced agreement.

12.0 Conflict/ Default Resolution

In the event of conflict or default that might arise for matters associated with this Agreement, the parties involved agree to informally and formally communicate to resolve the conflict. If this communication is not successful in resolving the conflict, the matter will be presented to the City Manager of Raleigh and the Town Manager of Rolesville for resolution. If the Managers are unable to resolve the conflict, the matter will be presented to the respective governing boards for resolution.

13.0 Fire Protection Services

Raleigh shall be responsible for maintaining fire hydrants and services in a reasonable manner at a level equivalent to that maintained by Rolesville at time of transfer of the system. This level of service shall include hydrant spacing, hydrant maintenance, and water volume and pressure available at the hydrant. Raleigh shall coordinate with the Rolesville Fire Department for necessary testing to be done by the Rolesville Fire Department.

14.0 Ordinances to be Adopted

As a condition of entering into this Agreement, Rolesville shall adopt such ordinances as are reasonably necessary to regulate the proper use of the subject water and sewer system and any extensions thereof by the customers and users within the jurisdiction of Rolesville. Said ordinances shall be reviewed and approved by Raleigh prior to adoption by Rolesville, and will further grant to Raleigh all administrative, permitting, regulatory, and enforcement authority necessary for the regulation, operation, maintenance, and improvement of the water and sewer systems serving the corporate and Urban Services Area limits of Rolesville. Rolesville shall maintain updates and enforce such ordinances. Raleigh shall reimburse Rolesville for the reasonable expenses of enforcing such ordinances. Said ordinances shall have the same or similar provisions as are included in Raleigh's use ordinance related to Raleigh's water and sewer utility system.

15.0 Amendment to Agreement

This agreement may be amended only by a document in writing, approved by the Town Board of Commissioners of Rolesville and the City Council of Raleigh and executed by the respective Mayors.

16.0 Customer Notification

Rolesville agrees to use all practical means, including direct mailing, to notify customers of changes associated with this merger. Such notification shall include information on schedule and mechanics of transfer and information concerning Raleigh's policies and procedures.

17.0 Severability

It is hereby the declared intention of Rolesville and Raleigh that the paragraphs, sections, sentences, clauses, and phrases of this agreement are severable. If one or more paragraphs, sections sentences, clauses, or phrases shall be declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the remaining provisions of this agreement and the same shall continue to be fully effective and enforceable on the basis that said remaining provisions would have been agreed to by Rolesville and Raleigh without the incorporation of such void, invalid or otherwise unenforceable paragraph, section, sentence, clause or phrase.

18.0 Notices

Whenever written notice is required under this agreement, said notice shall be sufficient when received by the Town Manager of Rolesville and the City Manager of Raleigh. Said notice may be mailed or hand-delivered but shall not be effective unless actually received.

Approved this _____ day of _____ 2001

Town of Rolesville

BY: _____

Town Manager

Attest:

Town Clerk

City of Raleigh

BY: _____

City Manager

Attest:

City Clerk

EXHIBITS

- Exhibit A Fixed Assets to be Transferred
- Exhibit B List of Real Property, Easements and Encroachments Agreements
- Exhibit C Water and Sewer Utility Property and Fixed Assets to be Retained by Rolesville
- Exhibit D Schedule of Upgrades and Improvements
- Exhibit E Schedule of Estimated Revenues and Expenses
- Exhibit F Bonded Indebtedness

EXHIBIT A - Fixed Assets to be Transferred

Asset	Address
1. Wastewater Pump Station	109 Bowling Drive, Rolesville
2. Rolesville Maintenance Building, Complete with contents	208 West Young Street, Rolesville
3. Elevated Water Storage Tank	Behind property at 106 South Main Street, Rolesville, PIN # 1769.17013494
4. Hydrogen Peroxide Dosing Location ^a	208 West Young Street, Rolesville
5. Hydrogen Peroxide Dosing Location ^a	291 North Main Street, Rolesville

^a Note: Hydrogen peroxide dosing equipment, including tank, metering pumps, controls and piping, are leased by the Town, and therefore ownership of the equipment does not transfer to the City.

Exhibit B List of Real Property, Easements and Encroachments Agreements

Property	Address
1. Wastewater Pump Station Site	109 Bowling Drive, Rolesville
2. Rolesville Maintenance Facility Site	208 West Young Street, Rolesville

Note: The Town of Rolesville has not identified easements or encroachment agreements relating to the utility. Agreement section 4.3 addresses responsibilities of the Town with regard to easements and encroachments.

**Exhibit C Water and Sewer Utility Property and Fixed Assets to be Retained by
Rolesville**

Property/Asset	Address
1. Well No. 3 and Wellsite	Behind property at 213 North Main Street, Rolesville
2. Wells No. 4 and 5 and Wellsite	206 Bowling Drive, Rolesville

Exhibit D Schedule of Upgrades and Improvements

EXHIBIT D

Summary of System Upgrade and Improvement Projects

Project Identifier	Project Description¹	Estimated Construction Cost	Engineering Allowance (10%)	Total Estimated Project Cost	Estimated Year of Construction
Water System:					
WS-001	New 500,000 gallon elevated storage tank, complete in place (60% proposed Rolesville share of costs)	\$ 667,800	\$ 66,780	\$ 734,580	2002
WS-002	16-inch line, US 401 from Jonesville Road to Forestville Road	\$ 1,013,760	\$ 101,376	\$ 1,115,136	2002
WS-003	16-inch line, feeder to elevated storage tank	\$ 105,600	\$ 10,560	\$ 116,160	2002
WS-004	Booster Pump Station at Forestville Road,	\$ 263,399	\$ 26,340	\$ 289,739	2002
WS-005	8-inch line, North Main from Young to end of System	\$ 324,000	\$ 32,400	\$ 356,400	2002
WS-006	6-inch line, Watkins Farm Road from Blueberry to Waterstone	\$ 35,640	\$ 3,564	\$ 39,204	2002
WS-007	South Main, abandon 6-inch Transite, move services to new 12-inch main, cap cross connections	\$ 12,000	\$ 1,200	\$ 13,200	2003
WS-008	South Main, replace 6-inch Transite	\$ 7,140	\$ 714	\$ 7,854	2003
WS-009	Bowling Street, replace 6-inch Transite	\$ 34,440	\$ 3,444	\$ 37,884	2003
WS-010	West Young Street, replace 6-inch Transite and new services	\$ 48,300	\$ 4,830	\$ 53,130	2003
WS-011	East Young Street, replace 6-inch Transite and new services	\$ 36,540	\$ 3,654	\$ 40,194	2003
WS-012	Rolesville Operations Ctr - abandon 4-inch Transite	\$ 3,600	\$ 360	\$ 3,960	2004
WS-013	Rolesville Operations Ctr - replace 4-inch line to Peroxide Station	\$ 5,760	\$ 576	\$ 6,336	2004
WS-014	Meter Replacement Program, to City of Raleigh standards	\$ 140,000	\$ 14,000	\$ 154,000	2002
Wastewater Collection, Conveyance and Pumping System:					
WW-001	Hydrogen Peroxide Dosing Station for south wastewater collection area	\$ 22,800	\$ 2,280	\$ 25,080	2003
Total Estimated Cost of Upgrade and Improvement Projects:				\$ 2,999,857	

Exhibit E Schedule of Estimated Revenues and Expenses

Exhibit F Bonded Indebtedness

Original Amount	Enterprise Debt	Interest Rate	Balance 6-30-2001	Anticipated Payoff
\$600,000	General Obligation Bond	5.5%	\$552,500	2033
\$374,000	Installment Loan, Wake Electric Cooperative	0%	\$332,444	2009