**Agenda Item:**

Town of Burke Resolution

**Background:**

The attached memo was distributed to the Yahara WINS Group’s Designated Representatives in August via email. That memo notes that Section 2 (b) of the Intergovernmental Agreement allows for additional municipalities to become parties to the IGA based on consent of a majority of the existing Members of the IGA, and on the condition that they make payments to cover their share of the cost for prior year(s). Since that time, 15 of the 23 Group members have given their consent for the Town of Burke to sign the IGA. There have been no participants that have denied their consent. Therefore, Yahara WINS and our attorney have developed the attached resolution for the Town of Burke to sign the Intergovernmental Agreement.

**Options:**

1. Sign the resolution
2. Defer signing the resolution.

**Recommendation:**

Adopt the resolution that allows the Town of Burke to become a Member of the Intergovernmental Agreement for an Adaptive Management Plan For The Yahara Watershed.
Memorandum

To: Yahara WINS Designated Representatives

From: Kathy Lake, Yahara WINS President
       David Taylor, Yahara WINS Consulting Director

Date: August 17, 2017

Subject: Town of Burke

The Town of Burke would like to become a member of the IGA Group. The Town of Burke did not previously execute the Intergovernmental Agreement for the full scale adaptive management project because preliminary results from updated stormwater modeling showed that the Town was meeting both its phosphorus and TSS allocations for the TMDL. Recent adjustments made to their stormwater modeling based on comments received from DNR have shown that the Town is meeting its phosphorus allocation under the TMDL, but is short of meeting its TSS allocation. This is unusual, but not unprecedented—the same situation exists for the Town of Westport.

Section 2 (b) of the Intergovernmental Agreement allows for additional municipalities to become parties to the IGA based on consent of a majority of the existing Members of the IGA, and on the condition that they make payments to cover their share of the cost for prior year(s). Our recommendation is that the Town of Burke be allowed to become a member of the IGA Group and execute the IGA, but as indicated above, this requires the consent of a majority of the existing Members of the IGA. Since you are the designated representative for your municipality, we are asking that you complete the attached form and return it to Kathy Lake no later than September 1st, indicating whether you support allowing the Town of Burke to become a member of the IGA, subject to the conditions specified in the IGA.

Since the Town of Burke is currently meeting its phosphorus allocation and IGA costs are based on phosphorus, the TSS reduction needs to be converted to a phosphorus equivalent reduction to determine the Town’s IGA cost. Once converted, the phosphorus equivalent reduction can then be multiplied by the cost per pound of phosphorus as derived from Exhibit B of the IGA to arrive at a cost for TSS using the phosphorus equivalent approach. The math is very straightforward and is shown in the table below for the one TMDL stream reach in the Yahara Watershed where the Town has a TSS shortfall (stream reach 64). This same approach was used previously for calculating costs for the Town of Westport.

<table>
<thead>
<tr>
<th>TMDL Stream Reach</th>
<th>Ratio of baseline TP pounds to baseline TSS pounds</th>
<th>Shortfall for TSS (pounds)</th>
<th>Phosphorus equivalent pounds</th>
<th>Cost per pound of P from Exhibit B of the IGA ($)</th>
<th>Cost for TSS using phosphorus equivalent approach ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reach 64</td>
<td>0.00303</td>
<td>56,260</td>
<td>170.5</td>
<td>$49.16</td>
<td>$8,381</td>
</tr>
</tbody>
</table>
In addition to making annual payments going forward, the Town of Burke would be required to make a back payment for 2017. The Town contributed $2,000 to the WINS effort in 2017 under a Memorandum of Understanding, and that amount would be credited toward their back payment for 2017. The back payment for 2017 would be included in the 2018 invoice sent to the Town, so the total amount invoiced in 2018 would be $14,762.
Consent Form for Town of Burke Participation in the Yahara WINS Intergovernmental Agreement

The Town of Burke wishes to become a party to the Intergovernmental Agreement for an Adaptive Management Plan for the Yahara Watershed. Section 2(b) of this Agreement allows for changes in the membership of the IGA. Specifically, this section states that:

“Additional Wisconsin municipalities may become Members of the Group with the consent of a majority of the Members by becoming Parties to this Agreement on the condition that payments be made to cover their share of costs based on their phosphorus allocation for the years from the date of this Agreement to their membership date.”

As your agency’s designated representative, please indicate whether you consent to the Town of Burke becoming a party to the Agreement, subject to the conditions of Section 2(b) of the Agreement by checking the appropriate box below and completing your identifying information:

☐ As my agency’s designated representative to the Intergovernmental Agreement, I consent to the Town of Burke becoming a party to the Agreement subject to the conditions specified in Section 2(b) of the Agreement.

☐ As my agency’s designated representative to the Intergovernmental Agreement, I do not consent to the Town of Burke becoming a party to the Agreement subject to the conditions specified in Section 2(b) of the Agreement.

Name of Municipality:

Name of Designated Representative:

Signature of Designated Representative:

Date:

Please complete this form and return to Kathy Lake (kathyl@madsewer.org) no later than September 1, 2017.
Resolution 02-2017
Change in Membership To The Intergovernmental Agreement For An Adaptive Management Plan For The Yahara Watershed

WHEREAS, Wis. Stat. § 66. 0301, entitled "Intergovernmental cooperation," provides that any municipality (defined as including but not limited to any state agency, city, village, town, county, sanitary district, metropolitan sewerage district or sewer utility district) may contract with other municipalities for the furnishing of services, and the joint exercise of any power or duty required or authorized by law;

WHEREAS, an Intergovernmental Agreement (IGA) For An Adaptive Management Plan For The Yahara Watershed was developed and executed by municipalities in 2016;

WHEREAS, the Town of Burke did not execute the Intergovernmental Agreement in 2016 because preliminary stormwater modeling results indicated that the Town of Burke had met its Total Maximum Daily Load (TMDL) allocations for Phosphorus and Total Suspended Solids (TSS);

WHEREAS, updated stormwater modeling results show that the Town is meeting its TMDL allocation for Phosphorus but is not meeting its TMDL allocation for TSS;

WHEREAS, the Town of Burke has now requested to become a Member of the Intergovernmental Agreement Group to achieve the additional TSS reduction needed to meet its TMDL allocation for TSS, with the understanding that its TSS reduction will be converted to a “Phosphorus Equivalent Reduction” for determining the Town of Burke cost to participate in the Intergovernmental Agreement;

WHEREAS, Section 2(b) of the Intergovernmental Agreement allows for additional Wisconsin municipalities to become Members of the Intergovernmental Agreement Group with the consent of a majority of the Members who originally executed the Intergovernmental Agreement, on the condition that payments be made to cover their share of costs based on their Phosphorus allocation for the years from the date of Intergovernmental Agreement to their membership date;

WHEREAS, a majority of the Members who originally executed the Intergovernmental Agreement have consented to allow the Town of Burke to become a Member of the IGA Group;

WHEREAS, the Town of Burke has agreed to the condition that it will be required make payment for the cost that it would have incurred in 2017 for participating in the IGA, based on the Phosphorus Equivalent Reduction, less a $2,000 credit for a 2017 payment made by the
Town of Burke to the Yahara Watershed Improvement Network (Yahara WINS); plus its annual cost under the Intergovernmental Agreement for the years going forward;

**NOW, THEREFORE, BE IT RESOLVED,** that the current Members of the Intergovernmental Agreement Group agree to allow the Town of Burke to become a Member of the Intergovernmental Agreement For An Adaptive Management Plan For The Yahara Watershed, subject to the Town of Burke’s duly authorized representative executing the signature page of the Agreement

Attested by:

_________________________________________  ___________________________________________
Kathleen Lake;                                  Jeffrey Rau;
President, Yahara WINS                          Treasurer, Yahara WINS
Executive Committee                              Executive Committee

Resolution adopted by the Yahara WINS Executive Committee on September 13, 2017