

**STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG
CITY OF CHARLOTTE**

**INTERLOCAL AGREEMENT FOR
THE REEDY CREEK PHASE 1 (I-485 to HOOD RD) TRIBUTARIES WATER QUALITY
ENHANCEMENT PROJECT**

This Interlocal Agreement for the Reedy Creek Phase 1 (I-485 to Hood Road) Tributaries Water Quality Enhancement Project (the "Reedy Tributaries Agreement") is entered into and agreed upon as of _____, 20__, (the "Effective Date"), by and between the COUNTY OF MECKLENBURG (the "County"), a political subdivision of the State of North Carolina and the CITY OF CHARLOTTE (the "City"), a municipal corporation organized under the laws of the State of North Carolina (together, hereinafter the "Parties").

WITNESSETH:

WHEREAS, the Parties operate the Charlotte-Mecklenburg Storm Water Services utility pursuant to the Amended and Restated Agreement for Operation of a Single Storm Water System in Mecklenburg County (the "Agreement"), an interlocal agreement entered into between the Parties in 1993 and amended and most recently restated in 2017, which identifies their respective rights and responsibilities for operation and management of storm water throughout Mecklenburg County;

WHEREAS, the County owns properties, holds easements or will obtain easements in the floodplain of Reedy Creek, located between Hood Road and I-485 in Charlotte, North Carolina as shown in Exhibit "A" attached hereto (hereinafter the "Property"). The County intends to make certain improvements to surface water quality on said Property along Reedy Creek, which includes the restoration of streams (hereinafter the "County Project");

WHEREAS, the City is interested in making certain improvements to surface water quality on said Property and on adjacent private properties, for which the City will obtain easements (hereinafter the "City Project");

WHEREAS, it is in the Parties' mutual best interest to make the City Project and County Project improvements concurrently by developing and coordinating design plans, site improvements and construction activities for both the City Project and the County Project (hereinafter the "Combined Project");

WHEREAS, the Parties desire to enter into a funding and development agreement that sets out the respective rights and responsibilities with respect to the Combined Project;

NOW, THEREFORE, in consideration of the premises and the fulfillment of the terms of this Reedy Tributaries Agreement, the County and the City agree as follows:

1. Combined Project Description. The Combined Project includes a combination of the following: stream restoration, stream enhancement, stream stabilization, wetland restoration, habitat structure placement, and buffer enhancements.

2. Exhibit List. The following Exhibits are attached hereto to this Reedy Tributaries Agreement and incorporated herein by reference:

Exhibit A: Project Location Map

Exhibit B: Combined Project Funding

Exhibit C: Combined Project Schedule

Each reference to the Reedy Tributaries Agreement shall be deemed to include all Exhibits.

3. Consultant Selection. The County, after complying with all applicable statutory procedures, has entered into a contract with Freese and Nichols, Inc. (hereinafter the "Consultant") for design of the Combined Project. Designs of each project component will be coordinated to create one set of combined plans to be used for construction of the Combined Project. Construction plans will be bid by the County according to item 5 below. The City authorizes the County to contract in compliance with all applicable statutory procedures with the Consultant to provide engineering services for the City Project.
4. Permits. The County shall, through their Consultant, obtain all Federal, State and local permits necessary to construct the Combined Project. The County will submit to the City a copy of all permit authorizations related to the Combined Project.
5. Construction Contract. The County will solicit and obtain bids for the construction of the Combined Project, including all labor, materials, and services necessary to execute the work associated with the approved Consultant design plans and construction documents, and award the contract for such Combined Project to a qualified contractor (hereinafter the "Contractor") in accordance with applicable law. The City will be responsible for supporting the County in their administration of the construction contract by managing aspects of the City Project such as coordination between the Consultant and Contractor, review and response to requests for information and submittals, attendance at construction meetings, pay application review and approval, project punch list, as-built and/or final walkthroughs and closeout for the purpose of construction QC/QA of the City Project, and all other tasks typically associated with a construction project. The County will not award a contract for construction of the Combined Project without (i) express written authorization by the City, and (ii) a commitment from the City to fund any required change orders for the Combined Project.
6. Easements. At a minimum, the County agrees to grant storm drainage easements on County property to the City to allow for the long-term stewardship and protection of the City Project. The storm drainage easements would allow for future trail and boardwalk crossings. All easements on private property will be obtained by the City.
7. Payment Responsibilities of the City. The City agrees to pay the County the amount as described in Exhibit B attached hereto for the project management, design, construction, and construction administration of the City Project upon the following conditions being met: receipt by the City of an invoice from the County of costs associated with the City Project, complete with actual cost documentation supporting the invoice. The City's payment to the County shall be made within ninety (90) days of the above conditions being met. The County shall send the City separate progress invoices for the design and for the construction of the City Project.

8. Funding Administration. The County shall be responsible for contract administration of the design and construction contracts, and the funding agreement with the City as specified in Exhibit B. The City and County, with assistance from the Consultant, will be responsible for separating all costs associated with the Combined Project in accordance with the approved scopes for design and the bid form for construction. No payment will be made to the Contractor, by the County, for work that is deemed not acceptable by the City or their designated representative. The County agrees to develop a project plan that is approved by the City and will include (i) goals, (ii) identification of stakeholders, (iii) outreach/communication, and (iv) risk management. The project plan will be jointly updated and managed by the County and City.
9. Notices. All notices required or permitted to be given hereunder shall be in writing and shall be deemed given if (i) emailed, (ii) delivered personally or by courier, (iii) faxed with confirmation of receipt, or (iv) mailed in a sealed wrapper and deposited in the United States Mail, registered or certified, return receipt requested, postage prepaid, properly addressed as follows:

If to the County: Mecklenburg County
Storm Water Services
2145 Suttle Avenue Charlotte NC, 28208
Attention: Brian Sikes

If to the City: City of Charlotte
Storm Water Services
4100 West Tyvola Rd. Charlotte, NC 28208
Attention: Erin Shanaberger

Either party may change its notice address by giving written notice of the change to the other party in the manner specified above ten (10) days prior to the effective date of such change.

10. Applicable Law. This agreement shall be enforced, interpreted and construed by and under the laws of the State of North Carolina.
11. Dispute Resolution. The Parties agree that any disputes which cannot be resolved by the City and County Managers or their designees will first be attempted to be resolved by mediation and if not resolved by mediation, then by binding arbitration. If the Parties cannot agree upon selection of an arbitrator and a process for arbitration, disputes between the parties arising out of or in connection with this agreement or the performance or breach thereof shall be resolved by binding arbitration in accordance with the then-applicable Commercial Arbitration Rules (the "Rules") of the American Arbitration Association. The Rules will apply except as specified in this paragraph. All arbitration proceedings will be held in Charlotte, North Carolina before a single arbitrator. The parties hereto agree to submit to the enforcement of any award resulting therefrom by any court of competent jurisdiction. Judgment upon the award rendered in any such arbitration proceeding may be entered into any court having competent jurisdiction thereof, or application may be made to such court for a judicial acceptance of the award and an order of enforcement as the case may be.

The City and County shall share responsibility in resolving any disputes with the consultant or Contractor associated with the City Project. If there is a contractual dispute between the County and the consultant or the County and the Contractor related to the City Project, the City agrees to assist the County with resolving the dispute in a similar manner to how the City would respond if they owned the design or construction contracts.

12. Term of Reedy Tributaries Agreement. The term of this agreement shall commence on the Effective Date and shall expire at the conclusion of the one-year construction warranty period unless sooner terminated or extended in accordance with the provisions of this agreement.
13. Schedule: City and County staff have reviewed and agreed upon the proposed Project Schedule attached hereto and incorporated herein as Exhibit C attached hereto. All due diligence will be undertaken by both parties to ensure adherence to the Project Schedule.
14. Amendments. This agreement may be amended by written agreement authorized by the governing bodies of each party and signed by authorized representatives of both parties.
15. Termination. The Parties may terminate this agreement at any time by mutual consent under such terms as may be agreed to in writing by authorized representatives of both parties.

[Signatures are on following pages]

IN WITNESS WHEREOF, the Parties hereto have caused this agreement to be executed as of the day and year first above written by the authority duly granted by their respective governing bodies.

CITY OF CHARLOTTE

BY: _____
Shawn Heath, Special Assistant to the City Manager

ATTEST:

City Clerk

This instrument has been pre-audited in the manner
Required by the Local Government Budget
and Fiscal Control Act.

By: _____
Director of Finance
City of charlotte

MECKLENBURG COUNTY

BY: _____
Leslie Johnson, Deputy County Manager

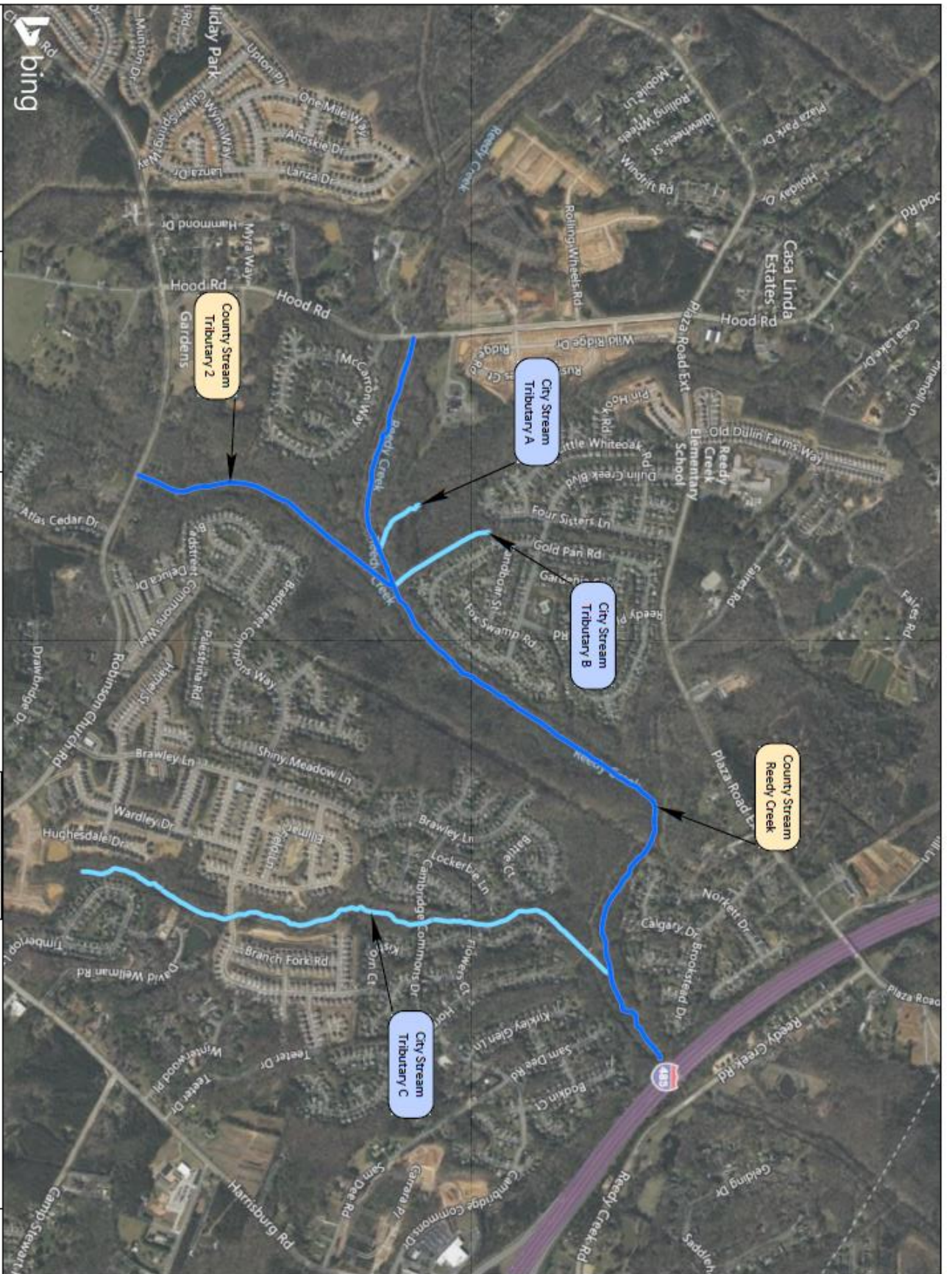
ATTEST:

Clerk to the Board

APPROVED AS TO FORM

By: _____
County Attorney

Exhibit "A"
PROJECT LOCATION MAP



Project Area

Reedy Creek Stream Restoration
Mecklenburg County, NC

File Project No. CM23-422

Date: 3/27/2023

Scale: 1:16,000

City Streams

County Streams

FIGURE 1

Exhibit "B"

COMBINED PROJECT FUNDING

Design and Project Management

- Individual project components were divided into independent scopes of work.
- County agrees to fund 100% of the design of the County Project.
- City agrees to fund 100% of the design of the City Project, including labor for County Project Manager in contract administration and stakeholder coordination for city project tasks. City design fees are broken down below.

<u>Task</u>	<u>Fee</u>
Survey (MBE)	\$ 262,930
Environmental Services (WBE)	\$ 73,981
Project Administration	\$ 40,588
Permitting	\$ 114,529
Special Services (Bat Survey)	\$ 52,169
Total	\$ 868,442
County Project Manager Labor	\$ 41,988
Design and Project Management Total	\$ 910,430

Construction and Construction Administration

- Individual project components will be divided into independent bid tabs prior to bid solicitations.
- County agrees to fund 100% of the construction of the County Project.
- City agrees to fund 100% of the construction of the City Project. Construction costs are anticipated not to exceed \$4,500,000.

The not-to-exceed amount for design and construction of the City Project shall be \$5,700,000, which includes City Project contingency.

Exhibit "C"
PROJECT SCHEDULE

Task	Estimated Completion Date
Combined Project Design	August 2025
Combined Project Construction	February 2027
Combined Warranty Period	February 2028