

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

**INTERLOCAL AGREEMENT FOR
FUNDING OF THE KINGS BRANCH
STREAM & SEWER PROJECT**

This Interlocal Agreement for Funding of the Kings Branch Stream and Sewer Project is entered into and agreed upon as of _____, 2024 (the “Effective Date”), by and between the **CITY OF CHARLOTTE** (the “City”), a municipal corporation organized under the laws of the State of North Carolina and the **COUNTY OF MECKLENBURG** (the “County”), a political subdivision of the State of North Carolina (hereinafter the “Parties”).

WITNESSETH:

WHEREAS, the Parties jointly operate the Charlotte-Mecklenburg Storm Water Services utility pursuant to an interlocal agreement entered into between the Parties in 1993, which identifies their respective rights and responsibilities for operation and management of storm water throughout Mecklenburg County;

WHEREAS, the City of Charlotte and the County own properties or hold easements along Kings Branch, located between Archdale Drive and Farmhurst Drive in Charlotte, North Carolina as shown in Exhibit “A” (hereinafter the “Property”). The County intends to relocate portions of the gravity sewer and make certain improvements to the water resources on said Property along Kings Branch, which may include the restoration of streams, Best Management Practices (“BMPs”) and provisions for subsequent maintenance and monitoring of the improvements (hereinafter the “County Project”);

WHEREAS, the City intends to fund the relocation of a small portion of the gravity sewer along the major stream known as Kings Branch, and provisions for subsequent maintenance and monitoring of the sewer improvements (hereinafter the “City Project”);

WHEREAS, it is in the Parties’ mutual best interest to make County Project and City Project improvements concurrently by developing feasibility and design plans for constructing both the County Project area and the City Project area (hereinafter the “Combined Project”);

WHEREAS, the Parties desire to enter into a funding and development agreement that sets out their 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 agreement, the County and the City agree as follows:

1. Combined Project Description. The Combined Project includes a combination of the following: gravity sewer, stream restoration; stream enhancement; stream stabilization; habitat structure placement; buffer enhancements; and implementation of structural BMPs.

2. Exhibit List

The following Exhibits are attached hereto and incorporated herein by reference:

Exhibit A: Map of the Property.

Exhibit B: Combined Project Funding.

Exhibit C: Project Schedule

Each reference to the agreement shall be deemed to include all Exhibits.

3. Consultant Selection. The County, after complying with all applicable statutory procedures, has selected a consulting engineering firm, Kimley-Horn & Associates, Inc. (the “Engineer”), which has expertise in the field of engineering, design, and construction contract services with projects similar in size and scope to the Combined Project, to provide engineering services with respect to the County Project. The City authorizes the County to contract in compliance with all applicable statutory procedures with the Engineer to provide engineering services for the City Project.

4. Planning and Design. The County and City shall be responsible, through the Engineer, for design of their respected Projects. The Kimley-Horn construction documents, dated July 12, 2024, consist of major system stream improvements (County design plans) and gravity sewer relocation (County and City design plans) combined.

5. Permits. The County shall, through the Engineer, obtain all Federal, State, and local permits necessary to construct their specific portion of the Combined Project. The County will submit to the City a copy of all permit authorizations related to the Combined Project.

6. Construction Contract. The County shall 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 Kimley-Horn construction documents, dated July 12, 2024, and award the contract for such Combined Project to a qualified contractor (hereinafter the “Contractor”) in accordance with applicable law. Before awarding any contract, the County must notify the City of all bidders for the Combined Project and their bid amounts. City Staff will be included in invitations to periodic and/or monthly construction meetings and punch list, as-built and/or final walkthroughs for the purpose of construction QC/QA of the Combined 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.

7. Maintenance. Maintenance of the facility will be performed according to the terms below:

The County will be responsible for:

- maintenance of the Stream portion of the project, including but not limited to stream vegetation, erosion, and stream structures;
- removal, at the discretion of the County, of trash, algae, mosquito control, and dead fish removal; and
- reporting blockages and nuisance animal activities such as burrowing animals.

The City will be responsible for:

- maintenance of the gravity sewer and associated rights of way;
- sewer inspection to address structural and functional maintenance items; and
- non-routine maintenance including maintenance related to right of way clearing.

8. Payment Responsibilities of the City. The City agrees to pay to the County the amounts as described in Exhibit B for the construction of the City Project upon the following conditions being met: receipt by the City of an invoice or invoices from the County of costs associated with the construction of the City Project, complete with actual cost documentation supporting the invoice or invoices. The City's payment to the County shall be made within ninety (90) days of the above conditions being met for each invoice submitted.

9. Funding Administration. The County shall be responsible for contract administration for the construction contract and the funding agreement with the City as specified in Exhibit B. The County, with assistance from the Engineer, will be responsible for separating all costs associated with the Combined Project.

10. Notices. All notices required or permitted to be given hereunder shall be deemed given if emailed, hand delivered, or 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 Ave
Charlotte NC, 28208
Attention: Brian G. Sikes

If to the City: City of Charlotte
Charlotte Water
5100 Brookshire Blvd.
Charlotte, NC 28216
Attention: Chuck Bliss, P.E.

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.

11. Applicable Law. This agreement shall be enforced, interpreted and construed by and under the laws of the State of North Carolina.

12. Dispute Resolution. The Parties agree that any disputes between the parties should first be attempted to be resolved between the City and County Managers or their designees. Any disputes which cannot be resolved by the City and County Managers or their designees will be referred to 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.

13. Term of 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.

14. Schedule: City and County staff have reviewed and agreed upon the proposed Project Schedule (Exhibit C). All due diligence will be undertaken by both parties to ensure adherence to the Schedule.

15. 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.

16. Termination. Either the City and County may terminate this agreement at any time by mutual consent under such terms as may be agreed to in writing by the Board of County Commissioners and the City Council. The City and County further acknowledge that either party may terminate this agreement if all bids received for that party's portion of the Combined Project exceed that party's budgeted ability to fund such portion of the Combined Project.

[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.

MECKLENBURG COUNTY

By: _____
Dena R. Diorio, County Manager

CITY OF CHARLOTTE

By:  _____
6E8A04CDBC7D437...

Marcus D. Jones, City Manager
City Clerk

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


Jarese Smith
Finance Officer

MJPrice
on behalf
of T.Smith

Digitally signed
by MJPrice on
behalf of T.Smith
Date: 2025.02.05
00:24:14 -05'00'

APPROVED AS TO FORM:

County Real Estate Attorney

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

Mecklenburg County Finance Director

Exhibit “A”

PROJECT MAP

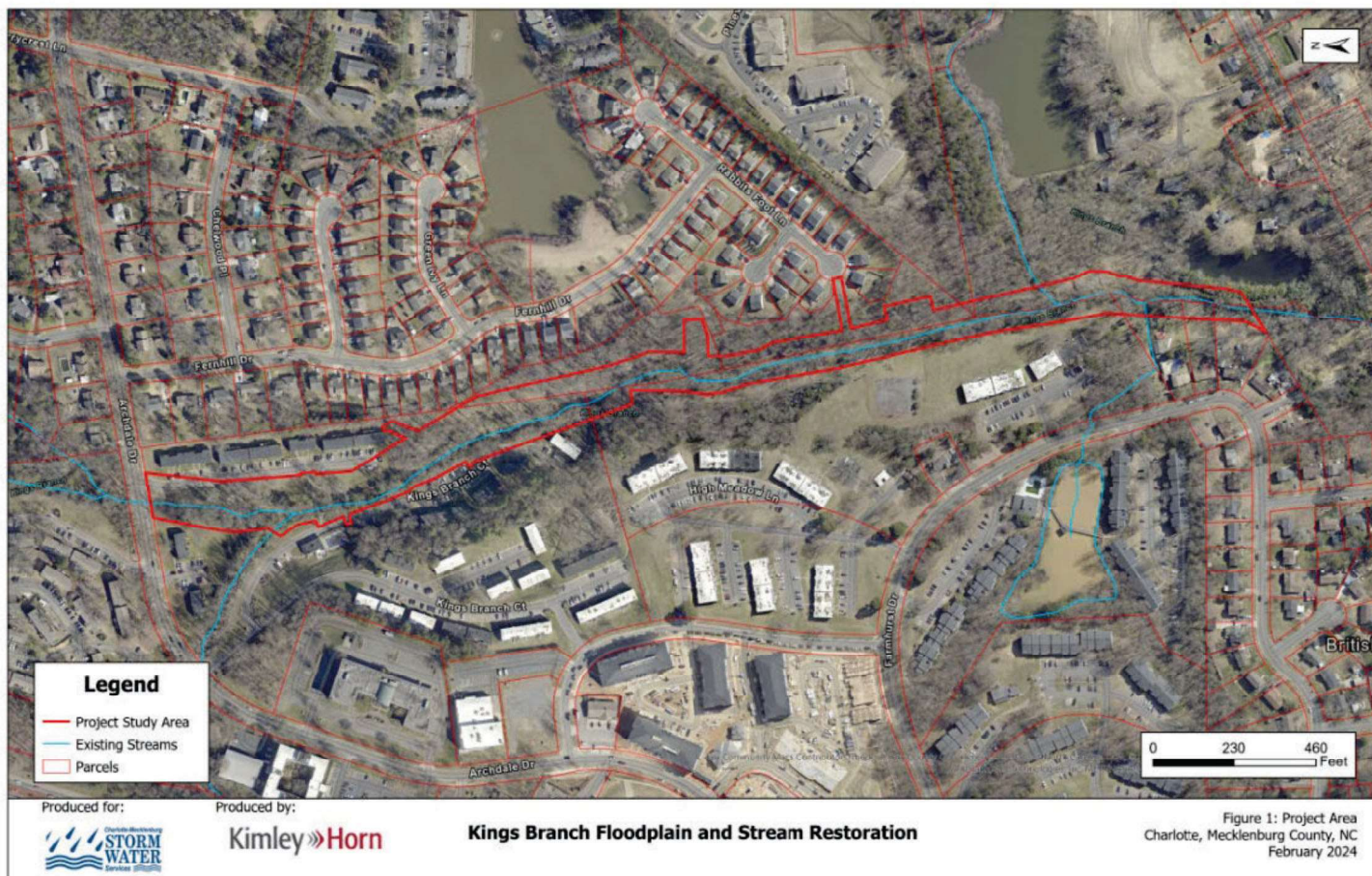


Exhibit “B”

COMBINED PROJECT FUNDING

Construction

- The County will manage construction of the Combined Project.
- County agrees to fund 100% of the construction of the County Project. The County’s portion of the project includes the stream restoration and the gravity sewer downstream of Manhole-07 according to Kimley-Horn construction documents dated July 12, 2024.
- City agrees to fund 100% of the construction of the City Project. The City’s portion of the project consists of gravity sewer upstream of Manhole-7 according to Kimley-Horn construction documents dated July 12, 2024.
- The City and County agree to allocate bid items that are mutual to both projects based on the table and percentages below. Estimates below are based on the Kimley-Horn probable costs based on the Kimley-Horn design plans dated July 12, 2024. Actual costs will be determined after the bid.

Item	County	City
County Project	\$5,000,000	
City Betterments		\$500,000

- The City and County will maintain separate contingency funds. City shall not use any County contingency funding without the prior written authorization of County. Utilization of contingency funds for shared items will follow the cost allocations set forth above. In the event that unexpected items arise, in which costs should be allocated between the City and County, both parties agree to work amicably to arrive upon a reasonable allocation.

Miscellaneous

- All miscellaneous post-construction costs associated with the sanity sewer areas (e.g., signs, administrative, etc.) will be paid by the City.
- All miscellaneous post-construction costs associated with the stream areas will be paid by the County.

Exhibit “C”

PROJECT SCHEDULE

Task	Finish Date
Advertise	2/05/2025
Pre-Bid	2/19/2025
Questions Due	3/05/2025
Addendum	3/19/2025
Bids Due	4/25/2025
Notice to Proceed Date	6/25/2025