

Salisbury City Council Agenda Item Request Form



Please Select Submission Category: ☐ Public ☐ Council ☐ Manager ☒ Staff

Requested Council Meeting Date: 10/03/2022

Name of Group(s) or Individual(s) Making Request: Stormwater Division

Name of Presenter(s): Michael Hanna

Requested Agenda Item: Council to consider authorizing contract in the amount of \$48,820 with McAdams Co Engineering to complete a feasibility study of Mahaley (Heros) Branch.

Description of Requested Agenda Item: McAdams will perform hydrologic and hydraulic assessments, provide the City with existing conditions results along with feasible greenway and stream alternatives, recommendations and estimates of construction cost ranges. The team will also identify external funding sources and develop a potential funding strategy. Contract amount is \$48,820.00.

Attachments: ☒ Yes ☐ No

Fiscal Note: (If fiscal note requires approval by finance department because item exceeds \$100,000 or is related to grant funds, please fill out signature blocks for finance at bottom of form and provide supporting documents)

Action Requested of Council for Agenda Item: Council to consider authorizing the City Manager to execute a contract with McAdams Co for an amount to not exceed \$48,820.00 for engineering services associated with the feasibility study of the Mahaley (Heros) Branch.

Contact Information for Group or Individual:

Chris Tester, Assistant Public Works Director, 704-216-7554

☒ **Consent Agenda** (item requires no discussion and will be voted on by Council or removed from the consent agenda to the regular agenda)

☐ **Regular Agenda** (item to be discussed and possibly voted on by Council)

FINANCE DEPARTMENT INFORMATION:

Finance Manager Signature

Department Head Signature

Budget Manager Signature

******All agenda items must be submitted at least 7 days before the requested Council meeting date******

For Use in Clerk's Office Only

☐ Approved

☐ Delayed

☐ Declined

Reason:

SERVICES CONTRACT

This contract for services (the "Contract"), made and entered into this _____ day of _____, 2022, by and between the **City of Salisbury**, a North Carolina municipal corporation (hereinafter referred to as the "City"), and **The John R. McAdams Company, Inc.**, a North Carolina corporation (hereinafter referred to as the "Provider") (collectively, the "Parties").

For and in consideration of the mutual promises set forth in the Contract, the parties do mutually agree as follows:

1. Obligations of Provider.

- a. Services. Under this Contract, Provider shall perform the following services: the *Mahaley Branch Feasibility Study* as more particularly described in Provider's proposal dated August 5, 2022, which is attached at **Exhibit A** and incorporated by reference (the "Services"). Provider shall, at its own sole cost and expense, perform and provide all the labor, services, materials, equipment, supplies, plans, and equipment necessary to complete the Services within the time specified and in accordance with the terms, conditions, and provisions of this Contract, and pursuant to the instructions, orders, and directions of the City made in accordance with this Contract.
- b. Qualifications of Provider. Provider, and all agents or employees of Provider who will provide services under this Contract, shall be fully qualified, possess any requisite licenses, and otherwise be legally entitled to perform the services provided, and shall exercise the skill and care customarily exercised by duly licensed and qualified providers of the same or similar services.
- c. Records Maintenance. Provider shall maintain written documentation of any professional services provided, including any required documentation meeting the requirements of applicable federal, state, and local laws and regulations.

2. Obligations of the City.

- a. Compensation. The City agrees to compensate Provider as set forth in the Exhibit A and in an amount not to exceed **\$48,820.00** once all services have been rendered in accordance with the terms of this Contract.
 - b. In the event of inclement weather, fire, power failure, or other similar occurrence, which may necessitate the cancellation of the delivery of Services, and an alternate date cannot be agreed upon, the City will be under no obligation to compensate Provider for Services not rendered.
3. Term. The Services will be provided on a schedule to be mutually agreed upon between City and Provider, and in any event by June 30, 2023, at which point this Contract shall terminate without further action of either party unless sooner terminated as herein provided.

4. Termination for Convenience. The City may terminate this Contract at any time at its complete discretion upon thirty (30) calendar days' notice in writing from the City to Provider prior to the date of termination. In addition, all finished or unfinished documents and other materials produced by Provider pursuant to this Contract shall, at the request of the City, be turned over to it and become its property. If the Contract is terminated by the City in accordance with this section, the City will provide a prorated payment for all services performed as of the date of termination.
5. Terms and Methods of Payment. Provider shall provide the City with invoice(s) itemized as set forth in **Exhibit A**, along with any supporting documentation that may be requested in advance by the City. Such invoice(s) shall be submitted within thirty (30) days of the rendering of services. The City shall process payments to Provider within thirty (30) days of submission of such invoice(s). Invoice(s) should be sent to [INSERT NAME AND ADDRESS], for review and approval.
6. Contract Funding. It is understood and agreed between Provider and the City that the City's payment obligation under this Contract is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made.
7. Insurance. Provider agrees to maintain \$1,000,000 in general liability, \$1,000,000 in automobile liability, and other appropriate insurance, as well as Workers Compensation in the required statutory amount, for all employees participating in the provision of services under this Contract. The "City of Salisbury, a North Carolina Municipal Corporation" shall be named by endorsement as an additional insured on the General Liability policy. Certificates of such insurance shall be furnished by Provider to the City and shall contain an endorsement to provide the City at least ten (10) days' written notice of any intent to cancel or terminate by either Provider or the insuring company. Failure to furnish insurance certificates or maintain such insurance shall be a default under this contract and shall be grounds for immediate termination of this Contract.
8. Taxes. Provider shall pay all federal, state and FICA taxes for all employees participating in the provision of services under this Contract.
9. Monitoring and Auditing. Provider shall cooperate with the City, or with any other person or agency as directed by the City, in monitoring, auditing, or investigating activities related to this Contract. Provider shall permit the City to evaluate all activities conducted under this Contract as dictated by the City. Provider shall provide auditors retained by the City with access to any records and files related to the provision of services under this Contract. The City agrees that its auditors will maintain the confidentiality of any identified and actual trade secrets of Provider accessed during an audit conducted under this Contract.
10. Time of the essence. The Parties agree that time is of the essence to each and every term or condition of this Contract where a certain length of time is fixed for the performance of the term or condition. The Parties further agree that any additional time allowed for the completion of any Work by mutual agreement of the Parties shall be of the essence to this Contract.

11. Compliance with Applicable Laws. Provider shall comply with all applicable laws and regulations in providing services under this Contract. In particular, Provider represents that it is authorized by federal law to work in the United States. Provider represents and warrants that it is aware of and in compliance with the Immigration Reform and Control Act and North Carolina law (Article 2 of Chapter 64 of the North Carolina General Statutes) requiring use of the E-Verify system for employers who employ twenty-five (25) or more employees and that it is and will remain in compliance with these laws at all times while providing services pursuant to this Contract. Provider is responsible for compliance with the Affordable Care Act and accompanying IRS and Treasury Department regulations.
12. Indemnification. To the maximum extent allowed by law, Provider shall indemnify and hold harmless the City and its agents and employees from and against all claims, actions, demands, costs, damages, losses, and/or expenses of any kind whatsoever proximately resulting from the omission or commission of any act, lawful or unlawful, by Provider or its agents and/or employees, including but not limited to court costs and attorney's fees, incurred in connection with the defense of said matters. The parties agree that this indemnification clause is an "evidence of indebtedness" for purpose of N. C. Gen. Stat. § 6-21.2.
13. Relationship of Parties. Provider shall be an independent contractor of the City, and nothing herein shall be construed as creating a partnership or joint venture; nor shall any employee of Provider be construed as an employee, agent, or principal of the City.
14. Restricted Companies List. Provider represents that as of the date of this Contract, Provider is not included on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.58. Provider also represents that as of the date of this Contract, Provider is not included on the list of restricted companies determined to be engaged in a boycott of Israel created by the North Carolina State Treasurer pursuant to N.C. Gen. Stat. § 147-86.81.
15. Nondiscrimination. By signing this Contract, Provider, for itself, its agents, officials, and employees, certifies that it does not and will not discriminate in any manner on the basis of race, color, national origin, ethnicity, religion, creed, age, disability, sex, sexual orientation, gender identity or expression, pregnancy, marital or familial status, National Guard or veteran status, or any other status protected by federal, state, or local law, in its employment or business practices, and with respect to the subject matter of this Contract, except where such actions are otherwise excepted from or allowed by federal nondiscrimination law, including, but not limited to, Title VII of the Civil Rights Act of 1964. The Provider further agrees to comply with the provisions and intent of City of Salisbury Ordinance No. 2021-52. That Ordinance is incorporated into this Agreement for the benefit of the City of Salisbury and its residents. To ensure compliance with this provision, Provider further agrees that it will promptly respond to reasonable requests for information from the City. Failure to respond to requests for information or failure to comply with the requirements of this provision shall constitute a breach of the Contract. This provision shall be binding on the successors and assigns of the Provider with reference to the subject matter of this Contract.

16. Anti-Nepotism. Provider warrants that, to the best of its knowledge and in the exercise of due diligence, none of its corporate officers, directors, or trustees and none of its employees who will directly provide services under this Contract are immediate family members of any member of the Salisbury City Council or of any member of the City's Administration, Human Resources, Information Technology, or Financial and Business Services departments. For purposes of this provision, "immediate family" means spouse, parent, child, brother, sister, grandparent, or grandchild, and includes step, half, and in-law relationships. Should Provider become aware of any family relationship covered by this provision or should such a family relationship arise at any time during the term of this Contract, Provider shall immediately disclose the family relationship in writing to the City Manager. Absent an applicable exception under state law and City policy, the existence of a family relationship covered by this Contract is grounds for immediate termination by the City without further financial liability to Provider.
17. No assignment. Provider shall not assign, subcontract, or otherwise transfer any interest in this contract without the prior written approval of the City.
18. Amendments in writing. This Contract may be amended only in writing and signed by both parties.
19. Governing law. North Carolina law will govern the interpretation and construction of the Contract.
20. Entire agreement. This Contract, including the purchase order, if any, used in connection herewith and any other document(s) expressly incorporated by reference as a part of this Contract, constitutes and expresses the entire agreement and understanding between the parties concerning its subject matter. This Contract supersedes all prior and contemporaneous discussions, promises, representations, agreements and understandings relative to the subject matter of this contract. To the extent there may be any conflict between the four corners of this Contract and other documents incorporated by reference herein, the terms of this Contract will control.
21. Attached Exhibits. The following documents, if any, are attached to this Contract and incorporated by reference herein:
- a. Exhibit A: Proposal for Mahaley Branch Feasibility Study dated August 5, 2022
22. Severability. If any provision of this Contract shall be declared invalid or unenforceable, the remainder of the Contract shall continue in full force and effect.
23. Counterparts and execution. This Contract may be executed in any number of counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. The Parties agree that computer scanned and/or faxed signatures or copies of this Contract will have the same validity and force as an "original."
24. Authority to Enter Contract. The person(s) executing this Contract on behalf of Provider have authority to do so as an official, binding act of Provider.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first indicated above.

CITY OF SALISBURY

PROVIDER

BY: _____

TITLE: _____

DATE: _____



Stream Restoration Practice Lead

9/12/22

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



August 5, 2022

Mr. Chris Tester
Assistant Public Works Director
City of Salisbury
303 W Franklin Street
Salisbury, NC 28144

RE: Mahaley Branch Feasibility Study

Dear Mr. Tester,

We are pleased to offer this proposal for conceptual design services for a stream restoration, greenway, and linear park feasibility study for the City of Salisbury along FEMA named Mahaley Branch. Outlined below is our understanding of the project and the detailed tasks associated with our overall project effort.

PROJECT UNDERSTANDING:

Site:

Mahaley Branch is a primary stream within the City of Salisbury in North Carolina. The project area defined in this proposal refers to the section of Mahaley Branch creek beginning at Grove Street within the Memorial Cemetery extending approximately one mile to its confluence with Grant Creek. The stream section is an estimated 5,500 linear feet. Due to the proximity of the project reach to Overton Elementary, Knox Middle School and Horizon's Unlimited, the City of Salisbury desires to enhance and restore this highly urbanized and unstable stream to improve water quality, safety and establish a linear park featuring greenway connectivity. The project area is largely located within FEMA regulated Zone AE Special Flood Hazard Areas for Mahaley Branch as depicted on the FIRM panel 5760 which became effective June 16, 2009. Several public utilities exist along the corridor and impacts will be analyzed as part of this proposal.

Proposed Scope:

McAdams proposes to gather information about the project site; perform basic hydrologic and hydraulic assessments; provide the City with existing conditions results along with feasible greenway and stream alternatives, recommendations and estimates of construction cost ranges. Additionally, the project team will identify external funding sources and develop a potential funding strategy to move forward into the next phase of the project. The following proposal outlines scope of individual tasks in greater specificity.

Assumptions:

This proposal is based on the following assumptions:

- > The scope of this proposal includes site evaluation and due diligence, hydrologic and hydraulic analysis, and alternatives analysis. No final designs (plans, calculations, or specifications) will be developed as part of the scope of this Agreement.
- > The City of Salisbury will be responsible for notification of existing property owners and for assuring access is granted on private property if needed.
- > Readily available topographic information from publicly available sources will be sufficient for analysis and concept design purposes. No surveying services are included in the scope of this proposal.
- > Any coordination for water and sewer utilities will be completed by the City of Salisbury.
- > Any public notifications will be coordinated through the City of Salisbury, as needed.
- > City of Salisbury will provide all available as-builts and future plans for all utilities within the corridor.
- > Preparation of grant applications is outside the scope of this Agreement. Should the City wish to engage McAdams to prepare grant applications using data generated from the Feasibility Study, additional scope and fee will be quoted at that time.
- > No pipe camera or closed-circuit television (CCTV) inspection work is included with this proposal.
- > No structural or geotechnical services are anticipated for this feasibility study and are not included in the scope of this Agreement.

SERVICES + FEES:

We propose the following services for the project area outlined above (Alphanumeric task numbers are for internal coding purposes):

Feasibility Study**A4.10 Data Gathering + Assessment:**

FEE: \$12,960

Scope of this section consists of collecting and assimilating existing publicly available data within the project area to guide development of preliminary stream, greenway and linear park design, including a site walk between McAdams, the City of Salisbury, and other identified stakeholders. McAdams will spend additional time in the field conducting a geomorphic assessment of the existing stream including representative cross sections, measurements of channel geometry, Bank Erosion Hazard Index (BEHI) measurements, and Near Bank Stress (NBS) visual indicators. Existing utility as-built information and future development/extension plans will be collected from the City of Salisbury, compiled into a base file, and analyzed in context of the project. The project is located within FEMA regulated Zone AE Special Flood Hazard areas, therefore linework, model and mapping data will be collected from publicly available sources. Task includes development of hydrology of the Mahaley Branch watershed and hydraulic analysis of the stream channel. Fee includes both desktop analysis and site field work.

A4.20 Preliminary Stream Restoration Design Concepts:

FEE: \$8,200

McAdams will develop concept design options to achieve stream restoration objectives for the project reach. Stream reaches will be designated based on geomorphic conditions, site constraints, crossings, property lines, tree protection areas, environmental concerns, and other features that affect design considerations. Fee assumes development of up to three conceptual design alternatives using natural channel design and other stabilization techniques to provide ecological uplift and resilience.

G8.10 Preliminary Greenway Design Concepts:

FEE: \$6,560

In conjunction with the preliminary stream restoration designs, McAdams will develop up to three preliminary greenway alternatives based on existing site constraints. This task includes recommendation of a typical pavement section, access trail locations, potential bridge locations, potential boardwalk locations, underpasses at bridges and/or culverts, parking areas and other potential elements for greenway construction.

A11.10 Preliminary Park Planning Concepts:

FEE: \$4,800

Based on information gathered from the site analysis and programming elements determined during the project Kick-off, McAdams will develop up to two preliminary concept plans for review by the Client. The concept plans will depict the overall design concept including passive recreation elements and conceptual planting designs. Plans to include:

- > Location and layout of site improvements (i.e. passive park elements, pavilions, gazebos and/or shelters; seating, etc.);
- > Key linkages and circulation patterns including internal parking and pedestrian ways;
- > Gateways and entrances to help identify feature areas;
- > Ingress / egress points, perimeter gates and access; and
- > Location and approximate shape/size of buildings and structures.

The two concept alternatives will be hand drawn with precedent imagery in black and white and provided to the Client in electronic format. Feedback on the concept alternatives shall be provided by the Client via written email documentation and / or an online meeting. At this time the Client shall select a preferred concept alternative for further refinement (one round of review and one meeting).

A4.30 Cost Analysis:

FEE: \$5,200

Based on alternatives developed in tasks A4.20, G8.10, and A11.10 above, the design team will prepare a feasibility level opinion of probable cost for alternative selection and project planning purposes.

A4.40 Preparation of Feasibility Study Summary Report:

FEE: \$10,600

McAdams will prepare a final report documenting the process and summarizing results of the Mahaley Branch Feasibility Study. The summary report will include description of the existing conditions, design approach and assumptions, alternative comparison, results of options considered, an anticipated range of project costs, cut sheets of alternatives, and identification and recommendation of funding sources and community engagement to move the project into design, permitting, and construction.

Extra Services:**K. Reimbursables:**

FEE: To be reimbursed per the attached Rate Schedule, up to \$500.

Applicable items will be billed in accordance with the attached Rate Schedule. This fee includes estimated reimbursable expenses for mileage and printing hard copies of documents.

J. Additional Services:

When requested by the Owner and confirmed by the Owner and/or Firm in writing, the Firm shall perform services in addition to those described above in this Agreement and the Owner shall compensate the Firm by hourly charges in accordance with the attached Rate Schedule.

FEE SUMMARY

Our proposed fee for the scope of services described herein is **\$48,820**. The Firm will not perform additional services until written notification from the Owner is received.

PROJECT SCHEDULE

The Firm's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the project. The following is the expected schedule for completion of work on this project:

Schedule to be mutually agreed upon between Owner and Firm.

The time limits and schedule set forth above have been agreed to by the Owner and Firm, but the time limits and schedule shall be extended for (1) reasonable cause, or for (2) any delays associated with the Firm's work on the project that are not the sole responsibility of the Firm.

OWNER RESPONSIBILITIES

Owner shall be responsible for the following:

- > Notification to proceed
- > Timely approval of sketches presented for Owner approval
- > Timely providing of information from other professional services (architect, geotechnical engineer, etc.), as described hereinabove
- > Payment of invoices in accordance with Item 2 of the Agreement for Professional Services

EXCLUSIONS

The following services are not included in this Agreement:

- > Any engineering or surveying service not specifically described above.
- > Court appearances for litigation, or preparation for same.
- > Revised directives from Client or Owner after design has begun.
- > Historical, archeological, insect, or terrestrial or aquatic animal surveys that require highly specialized expertise.
- > Management of highly specialized subconsultants should their services become necessary.

GENERAL CONDITIONS

- > This proposal is valid for 60 days from the above date.

CONCLUSION

We appreciate this opportunity to propose our services and look forward to continuing to serve the City of Salisbury!

Sincerely,

MCADAMS



Rebecca Stubbs, PE
Stream Restoration Practice Lead, Water Resources

ACCEPTANCE

By: _____

Date: _____

Name: _____

Title: _____

ACCOUNTING INFORMATION

Billing Contact: _____

Billing Contact Email Address: _____

Billing Contact Phone Number: _____

Billing Address: _____



MAHALEY BRANCH FEASIBILITY STUDY

Date: August 5, 2022
Project Number: PSLB22001
Linear Feet: 5,500
Total Fee: \$48,820

TASK ID	DESCRIPTION	FEE	FEE BASIS	NOTES
FEASIBILITY STUDY				
A4.10	Data Gathering + Assessment	\$12,960	Fixed Fee	
A4.20	Preliminary Stream Restoration Design Concepts	\$8,200	Fixed Fee	
G8.10	Preliminary Greenway Design Concepts	\$6,560	Fixed Fee	
A11.10	Preliminary Park Planning Concepts	\$4,800	Fixed Fee	
A4.30	Cost Analysis	\$5,200	Fixed Fee	
A4.40	Preparation of Feasibility Study Summary Report	\$10,600	Fixed Fee	
TOTAL		\$48,320		

REIMBURSABLES

K.	Reimbursables	\$500	Allowance	
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1. Specifications for contract by hourly charge, the following rates apply

ROLE	RATE	ROLE	RATE
Principal-in-Charge	\$210 / hour	Designer II	\$120 / hour
Senior Project Manager	\$190 / hour	Designer I	\$105 / hour
Project Manager	\$150 / hour	Senior CAD Technician	\$110 / hour
Senior Project Engineer	\$150 / hour	CAD Technician	\$90 / hour
Project Engineer	\$140 / hour	Survey Director	\$190 / hour
Intern	\$80 / hour	Survey Project Manager	\$150 / hour
Senior Landscape Architect	\$150 / hour	Survey Technician	\$105 / hour
Landscape Architect	\$140 / hour	Survey Crew (2 Man)	\$145 / hour
Landscape Designer	\$120 / hour	SUE Project Manager	\$150 / hour
Senior Planner	\$185 / hour	SUE Technician	\$85 / hour
Planner	\$130 / hour	UAS Crew	\$225 / hour
GIS Manager	\$180 / hour	Senior Project Coordinator	\$95 / hour
GIS Technician	\$110 / hour	Construction Services Manager	\$210 / hour
Graphics / Media Design	\$100 / hour	Construction Services Professional	\$150 / hour
Technical / Grant Writer	\$100 / hour	Construction Observation	\$140 / hour
Technical Manager	\$150 / hour		

Hourly services are recorded and rounded to the nearest 1/4 hour.

2. The following charges apply on all contracts, for copies of plans and specifications sent out of the Engineer's office (to Owner, City regulatory agencies, bidders, contractor, other consultants, etc.):

ITEM	FEE	ITEM	FEE
Oversize + Color Rep.	\$3.00 / each	Oversize Mylar Sepia	\$20.00 / each
Paper Reproductions	\$2.00 / each	Mylar Sepia	\$15.00 / each
Specifications	\$0.10 / each	Paper Sepia	\$5.00 / each

3. The following rates are charged in addition to the above fees:

ITEM	FEE
Fees Paid for Permits and Applications	Cost Plus 10%
Outside Photocopying, Travel, Overnight Delivery, Postage for Mass Mailings	Cost Plus 5%
Subcontractor Invoices	Cost Plus 12.5%

4. Fees are subject to adjustment at the beginning of each calendar year.

5. Projects are billed on a monthly basis and invoices are due upon receipt. Invoices which have been not been paid within 30 days are past due and subject to finance charges of 1.5% per month.