



**Date:** July 17, 2012

**To:** Thomas J. Bonfield, City Manager  
**Through:** Theodore L. Voorhees, Deputy City Manager  
**From:** Marvin G. Williams, Public Works Director  
**Subject:** Contract SD-2012-02, University Drive Culvert Replacement

### **Executive Summary**

On June 15, 2012, bids were opened for Contract SD-2012-02. This contract consists of the furnishing of all materials, labor, equipment, tools, etc. unless otherwise specified, for the complete installation of approximately 190-feet of a cast-in-place 10-foot by 5-foot reinforced concrete box culvert and approximately 160-feet of a double 5-foot by 5-foot pre-cast box culvert to convey stormwater around an existing building and underneath University Drive near the intersection of US 15/501 and University Drive. The lowest responsive bid was submitted by Pipeline Utilities, Inc., of Raleigh, North Carolina. The Public Works Department recommends that the City Council authorize the City Manager to execute a contract with Pipeline Utilities, Inc., for Contract SD-2012-02 in the amount of \$893,077.00 with a contingency of \$133,961.55 (15%). This results in a total amount of \$1,027,038.55.

### **Recommendation**

The Administration recommends that the City Council authorize the City Manager to execute a contract for SD-2012-02, University Drive Culvert Replacement, with Pipeline Utilities, Inc. in the amount of \$893,077.00; establish a contingency fund in the amount of \$133,961.55 (15%); and authorize the City Manager to negotiate change orders provided that the cost of all change orders does not exceed \$133,961.55 and the total project cost does not exceed \$1,027,038.55.

### **Background**

Scott Howell approached the City and the North Carolina Department of Transportation (NCDOT) in 2005 concerning the drainage system on his property at 2514 University Drive (Nana's Restaurant and the Rockwood Building). The private drainage system extends from a regulated stream on the west side of the property, runs underneath the back parking lot then passes under two buildings and the front parking lot, where it connects to the public system within NCDOT maintained University Drive right-of-way. A sinkhole had formed in the parking area in front of the building adjacent to the Rockwood Building sign. It was determined that a portion of the private system located on Mr. Howell's property was failing and deficient. Mr. Howell requested assistance from the City in repairing the system.

The City and Mr. Howell first entered into an agreement on August 16, 2006. The City agreed to assist Mr. Howell with "designing and building a replacement stormwater line" on his property. The City Manager awarded a contract to HDR Engineering, Inc. of the Carolinas (HDR) on September 27, 2006 in the amount of \$29,988.00 to begin work on the design of the drainage system rerouting in the vicinity of University Drive and Chapel Hill

Boulevard. At the same time the City entered into discussions with NCDOT to share in the cost of the culvert replacement, specifically the portion of the system within NCDOT right-of-way. The City and Mr. Howell entered into a supplemental agreement on August 15, 2008. This agreement details construction scheduling, phasing, easement dedications, and cost sharing between Mr. Howell and the City.

NCDOT must approve construction within State right-of-way. NCDOT gave preliminary approval of a pre-cast replacement culvert and construction plans were submitted to NCDOT for review on February 6, 2009. Seven months later on September 14, 2009, NCDOT determined a pre-cast design was not acceptable within the right-of-way due to grade changes and alignment angles for the replacement culvert. As a result the project required significant design changes. At this time several other storm drainage projects (culvert or pipe replacements on West Markham Avenue, Hoover Road, Morehead Avenue, and Jackson Street) took higher priority over this project. These projects addressed culverts or pipes that had failed and caused road closures.

During the spring and summer of 2011, Nana's Restaurant and the Rockwood Building experienced flooding that was apparently due to a partial obstruction of the storm drainage system on private property. The blockage was removed from underneath the Rockwood Building by City maintenance crews on July 12, 2011. Since this time, City maintenance crews have been monitoring the system after large storms for accumulation of debris. The removal of the blockage and the monitoring of the system are being performed as a courtesy by the City to the property owner and NCDOT.

At the July 21, 2011 Work Session, City Council authorized an amendment to the contract with HDR in the amount of \$146,575.00 to complete the design for the culvert rerouting. This amendment included a geotechnical investigation, surveying services, structural design, construction management and observation, environmental permitting, and materials testing.

Revised construction plans were submitted to NCDOT on September 23, 2011. City Council authorized the City Manager to enter into a Municipal Agreement with NCDOT at the October 3, 2011 meeting. The agreement stipulates the terms under which NCDOT will reimburse the City (\$93,000.00) for construction of the box culvert within NCDOT right-of-way. After seven months, NCDOT issued final approval of the construction drawings on March 26, 2012. NCDOT executed the right-of-way encroachment agreement on June 12, 2012.

The construction contract was initially advertised on March 12, 2012. Bids were opened on April 12, 2012. The low bidder failed to include a non-collusion affidavit and was deemed non-responsive. The next lowest bid was more than ten percent greater than the engineer's estimate. Staff recommended and the City Manager agreed to reject all bids based on these circumstances. The construction contract was re-advertised on June 1, 2012. An anticipated remaining project schedule is attached to this agenda item.

## Issues and Analysis

The following is a summary of bids received:

DeVere Construction Company, Inc.	\$677,967.45	Low Bid
Pipeline Utilities, Inc.	\$893,077.00	
Centurion Construction Company, Inc.	\$896,668.22	
Triangle Grading & Paving, Inc.	\$949,137.60	

The low bidder, DeVere Construction Company, Inc., was deemed non-responsive because the contractor failed to submit a portion of the required safety record information with their bid package. A detailed list of the information that was not provided is listed in the Contract Safety Record Information Summary below. DeVere has protested their bid being deemed non-responsive. Staff responded to this protest by confirming that DeVere's bid is non-responsive in a letter dated July 19, 2012. The letter is attached to the agenda item.

The Public Works Department recommends awarding Contract SD-2012-02 to Pipeline Utilities, Inc. in the amount of \$893,077.00.

## Alternatives

The Department of Public Works has not identified any alternatives since the bids received are competitive and are consistent with the engineer's estimate prepared by the City's consultant, HDR.

## Financial Impact

This project is budgeted for in the adopted Capital Improvements Project Ordinance (#14288) for private property and right-of-way drainage repairs, from the following accounts.

4300L045-731000-LK100:	\$600,000.00
4300L045-731000-LK101:	\$93,000.00
4300L045-731000-LK107:	\$334,038.55
Total:	\$1,027,038.55

## SDBE Summary

The Equal Opportunity/Equity Assurance Department reviewed the bid submitted by Pipeline Utilities, Inc. of Raleigh, North Carolina to determine compliance with the Ordinance to Promote Equal Business Opportunities in City Contracting. The goals for this project are MSDBE 7% and WSDBE 3%. It was determined that Pipeline Utilities, Inc. was in compliance with the Ordinance to Promote Equal Business Opportunities in City Contracting.

## SDBE REQUIREMENTS

Pipeline Utilities, Inc. will subcontract to the following certified firms:

Firm	ID	City/State	Amount	% of Contract
Pro Site Services	MSDBE	Durham, NC	\$64,360	7.2%
Stay Alert Safety Services	WSDBE	Kernersville, NC	\$19,040	2.1%
Bullington Construction*	WBE	Oakboro, NC	\$6,000	0.7%

\*Bullington Construction, Inc. is certified as a WBE with the North Carolina Department of Transportation and therefore can be used to meet the woman goal for this project.

The MSDBE goal and WSDBE goal were both met.

## **WORKFORCE STATISTICS**

The workforce statistics for Pipeline Utilities, Inc. are as follows:

Total Workforce	63	
Total Females	4	6%
Total Males	59	94%
Black Males	6	10%
White Males	35	55%
Other Males	18	29%
Black Females	0	0%
White Females	4	6%
Other Females	0	0%

### **Contract Safety Record Information Summary**

The Bidder Safety Record Review Policy (FP-603.01) requires that contractors submit specific safety record information for review as part of their bid. The low bidder, DeVere Construction Company, Inc. failed to submit all of the required safety record information. The Risk Management Division reviewed the information submitted by DeVere and found that the following required items were missing.

- Section 1: OSHA DART Incident Rate
  - Industry DART Incident Rate
  - Industry Field and Code
- Section 2: Experience Modification Rate (EMR)
  - Industry Field and Code
- Section 3: OSHA Specific Questions
  - List of the numbers of fatalities and documented explanations of the fatalities in response to answering 'yes' to question 3(b).
- Section 5: Required Written Explanation of Safety Record
  - A detailed written explanation of what specific actions have been taken to improve its overall safety record in response to answering "yes" to a number of the OSHA Specific Questions, specifically 3(a) and 3(b).

Staff determined DeVere's bid to be non-responsive because it did not include all of the prescribed requirements as stated in section 00 21 15, paragraph 1.20.C of the project manual.

The next lowest bidder, Pipeline Utilities, Inc., submitted all of the required safety record information. The safety record information was reviewed by staff and determined to be complete and did not require further evaluation by the Risk Management Division.

### **Attachments**

1. Construction Drawings Cover Sheet with Vicinity Map (March 12, 2012)
2. Contract Safety Record Information Review Memorandum (July 9, 2012)
3. Owner's Request for Assistance for Stormwater Project (August 16, 2006)
4. Supplemental Agreement for Stormwater Improvement (August 15, 2008)
5. NCDOT Municipal Agreement No. 2588 (November 28, 2011)
6. NCDOT Right-of-Way Encroachment Agreement (June 12, 2012)
7. Letter to DeVere Construction Company, Inc. (July 19, 2012)
8. Anticipated Remaining Project Schedule (July 25, 2012)