



**Date:** December 21, 2021

**To:** Wanda S. Page, City Manager  
**Through:** Bertha T. Johnson, Deputy City Manager  
**From:** Marvin G. Williams, Director of Public Works  
**Subject:** South Ellerbe Restoration Project Phase 2 – Site Demolition & Mass Grading Contract (SP-2021-02)

**Executive Summary**

The South Ellerbe Restoration Project will transform a 9-acre flood-prone parcel located at 808 W Trinity Ave., Durham, NC 27701 to a constructed wetland and natural stream restoration that will filter stormwater runoff from parts of downtown and nearby neighborhoods. The project will provide water quality benefits to Ellerbe Creek, help the City comply with the Falls Lake Nutrient Management Strategy, and create a premier community asset. The South Ellerbe Restoration Project is designed by Wildlands Engineering, Inc. (Wildlands) under a professional services contract, SP-2017-02, which includes the design, permitting, public outreach, and construction administration services. Construction of the South Ellerbe Restoration Project is taking place in phases.

On November 22, 2021 six bids were opened for Contract SP-2021-02, South Ellerbe Restoration Project Phase 2 – Site Demolition & Mass Grading (Phase 2). Phase 2 includes the furnishing of all materials, labor, equipment, tools, etc. for the demolition and removal of the building foundation and hardscape, debris removal, and mass grading activities for the South Ellerbe Restoration Project. Mass grading activities will also include the removal and reuse of approximately 25,500 cubic yards of soil. The Public Works Department has coordinated with other City departments (Water Management and Solid Waste) to determine suitable sites at the Mist Lake Facility Expansion Project and the City’s Closed Landfill to reuse the soil and help minimize hauling and disposal costs for Phase 2. The lowest responsive, responsible bid was submitted by Buckeye Elm Contracting, LLC of Columbus, OH. The Public Works Department recommends that the City Council authorize the City Manager to execute Contract SP-2021-02 with Buckeye Elm Contracting, LLC in the amount of \$1,512,594.

**Motion**

To authorize the City Manager to execute Contract SP-2021-02, South Ellerbe Restoration Project Phase 2 – Site Demolition & Mass Grading, with Buckeye Elm Contracting, LLC in the amount of \$1,512,594;

To establish a contingency fund in the amount of \$151,259; and

To authorize the City Manager to negotiate change orders for Contract SP-2021-02 provided that the total contract cost does not exceed \$1,663,853.

## **Background**

The 9-acre site is located at the headwaters of South Ellerbe Creek at the confluence of two heavily developed urban basins (~ 485 acres) near downtown Durham. Almost the entire site is located within the 100-year floodplain and a portion of the remaining building foundation is located within the regulated floodway. The parcel was identified as a potential site for a constructed wetland stormwater retrofit. A study completed in 2012 determined that the site was suitable for the installation of a stormwater feature, such as a constructed wetland, to help reduce nitrogen and phosphorus (nutrients) and improve water quality in Falls Lake. State rules require jurisdictions in the Falls Lake watershed to reduce nutrients in stormwater runoff from existing development. In addition to benefiting Falls Lake, a constructed wetland and natural stream restoration at this site would also provide additional ecosystem enhancements such as increased biodiversity, increased green space and pollinator-friendly habitat, carbon sequestration, and improved aquatic life for South Ellerbe Creek and Falls Lake. Local residents, visitors to Durham, and students will be able to enjoy the additional greenspace this project will provide near downtown Durham through the use of the site's educational areas, plazas with seating, grassy seating area, and looped trail.

City Council approved acquisition of the property at 808 W. Trinity Avenue in October 2015. In February 2017, Wildlands Engineering began working on the design, permitting, public outreach, and construction administration services for the South Ellerbe Restoration Project (professional services contract SP-2016-02). The main goals of this project are to improve the water quality and watershed health of Ellerbe Creek, help the City comply with the Falls Lake Rules by reducing nitrogen and phosphorus transported to Falls Lake, and create a community asset. This project aligns with City of Durham's Strategic Plan Sustainable Natural and Built Environment goal and with the Sustainability Roadmap Natural Systems Goal.

The South Ellerbe Restoration project is being constructed in phases. The Phase 1 demolition of the former Duke Diet and Fitness Center building (Contract SP-2017-01) was completed in the outset of the project in 2018. This construction contract, Phase 2, will include the demolition and removal of the building foundation and hardscape, debris removal, and mass grading activities including the removal and reuse of approximately 25,500 cubic yards of soil. The Public Works Department has coordinated with the Water Management Department and Solid Waste Department to find suitable sites at the Mist Lake Facility Expansion Project and the City's Closed Landfill to reuse the soil and help minimize hauling and disposal costs. Final design and permitting efforts are currently underway for Phase 3, construction of the wetland and stream restoration.

Outreach and input from community members has been an important part of this multi-year process. Efforts to engage Durham residents in this project have been ongoing since 2012. The project team has hosted six public information sessions, given nineteen presentations, distributed three surveys, published sixteen handouts, created and updated a Frequently-Asked-Questions (FAQ) document, created six videos (including one in Spanish), three bilingual (English/Spanish) postcards, and regularly updated social media posts. Outreach strategies have evolved to add Spanish language surveys and evaluate demographics during community engagement activities. The project team also collaborated with a Duke University class on their project titled "Assessing Equitable Outreach for the South Ellerbe Stormwater Restoration Project" for which students conducted in-person surveys of local community members in both English and Spanish at locations near the project site. A partnership with Neighborhood Improvement Services and other departments has been developed to expand our equitable community engagement efforts in underrepresented communities. Outreach material is available on the project website: <https://durhamnc.gov/1616>. A concept plan and cost estimate

that incorporated input from residents who provided feedback in a variety of ways including workshops, information sessions, and surveys was presented to City Council at the October 10, 2019 Council Work Session.

**Issues and Analysis**

The Public Works Department solicited bids for this project on October 5, 2021. Six bids were received and opened at the formal bid opening on November 22, 2021. The low bidder, Bruce Allen Construction Company, LLC was deemed non-responsive by the Department due to a failure to include the required Contractor Safety Record Information, Project Information sheets, Contractor Workforce Questionnaire, and Covid-19 Safety Plan with the bid submission. The next lowest bid submitted by Buckeye Elm Contracting, LLC did not meet the Minority-owned Underutilized Business Enterprise (MUBE) goal of 11%. The Good-Faith Efforts (GFE) route was invoked and it was determined they demonstrated GFE and is in compliance with the Ordinance to promote Equal Business Opportunities in City Contracting.

The following is a summary of bids received during the solicitation period:

Bruce Allen Construction Company, LLC	\$1,226,900	Low Bid, Non-Responsive
Buckeye Elm Contracting, LLC	\$1,512,594	Next Lowest Bid
MEC Environmental Construction, Inc.	\$1,890,916	
J Smith Civil, LLC	\$1,977,500	
FSC II, LLC dba Fred Smith Company	\$2,077,000	
Pinam Construction, Inc.	\$3,547,080.06	

The Public Works Department recommends awarding Contract SP-2021-02 to Buckeye Elm Contracting, LLC in the amount of \$1,512,594.

**Alternatives**

The Public Works Department has not identified any alternatives since the bids received are competitive and consistent with the opinion of probable cost of Phase 2 prepared by staff.

**Financial Impact**

This project is budgeted for in the following accounts (Capital Improvements Project Ordinance #15822):

FY 2022	4300L045-731000-LK110 (Construction In Progress)	\$1,512,594
FY 2022	4300L045-731900-LK110 (Contract Contingency)	\$ 151,259
	Total:	\$1,663,853

**Equal Business Opportunity Summary**

The Equity & Inclusion Department reviewed the bid submitted by Buckeye Elm Contracting, LLC of Columbus, OH to determine if they are in compliance with the Ordinance to Promote Equal Business Opportunities in City Contracting. The goals for this project are MUBE 11% and WUBE 7%. Although Buckeye Elm Contracting, LLC exceeded the WUBE goal, they did not meet the MUBE goal. Therefore, the Good-Faith Efforts (GFE) route was invoked. It was determined they demonstrated GFE and is in compliance with the Ordinance to promote Equal Business Opportunities in City Contracting

## UBE REQUIREMENTS

Buckeye Elm Contracting, LLC will utilize the following certified firm:

<b>Firm</b>	<b>ID</b>	<b>City/State</b>	<b>Amount</b>	<b>% of Contract</b>
Puryear Enterprises, LLC	WUBE	Raleigh, NC	\$158,000	19%

### Contractor Workforce Diversity & Hiring Practices

According to the contractor's responses to the "Contractor Workforce Diversity Questionnaire," the contractor is a "small employer (less than 50 employees)"; consisting of "a mix of professional, skilled, and unskilled workers and labors." The contractor believes the company has a diverse workforce because their executive team portrays diversity and inclusion (61% of the company is women-owned and controlled); they make every attempt to hire employees from different cultures, viewpoints, backgrounds, and personalities; make sure that employees feel included & respected regardless of their background; the company welcomes a multi-lingual workforce; their goal is to build a multigenerational workforce; and they audit their ads to make them more attractive to a wider audience of candidates. The contractor listed many examples of efforts the company makes to promote or create a more diverse workforce including auditing job advertisements to make them attractive to a wider audience; including an equal opportunity employer statement on job advertisements; selecting workers for projects that come from different backgrounds and experience (different ages, genders, races); providing inclusion training to all employees; providing paid time off to celebrate cultural and religious holidays; and they have created company policies and procedures (such as flexible schedules and remote work options) that support a diverse set of candidates.

### Total Workforce:

<b>Employment Category</b>	<b>Total Employees</b>	<b>Total Males</b>	<b>Total Females</b>
Project Manager	8	8	
Professional	5	4	1
Labor	19	17	2
Clerical	2		2
<b>Total</b>	<b>34</b>	<b>29</b>	<b>5</b>

### Male:

<b>Employment Category</b>	<b>White</b>	<b>Black</b>	<b>Hispanic</b>	<b>Asian or Pacific Islander</b>	<b>Indian or Alaskan Native</b>
Project Manager	8				
Professional	3		1		
Labor	11	5	1		
Clerical					
<b>Total</b>	<b>22</b>	<b>5</b>	<b>2</b>		

**Female:**

<b>Employment Category</b>	<b>White</b>	<b>Black</b>	<b>Hispanic</b>	<b>Asian or Pacific Islander</b>	<b>Indian or Alaskan Native</b>
Project Manager					
Professional	1				
Labor	2				
Clerical	2				
Total	5				

**Attachments**

1. UBE Compliance Report, dated December 13, 2021
2. Contract SP-2021-02, Agreement Form, dated January 18, 2022