



Office of Business  
Inclusion and Advancement

City of Winston-Salem  
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# Memorandum

**TO:** Mayor Joines and Members of City Council  
**FROM:** Evan Raleigh, Director Office of Business Inclusion & Advancement  
**DATE:** April 12, 2017  
**SUBJECT:** 28<sup>th</sup> Street Drainage Improvement with Sewer and Utility Rehabilitation Project  
**CC:** Lee Garrity, City Manager

At the April 10<sup>th</sup>, 2017 meeting of the Finance Committee, Chairman Clark requested that staff provide a summary of the factors that contributed to Charles D. Lowder, Inc. failing to meet the M/WBE goals that were established for the above mentioned project. Wallace Mechanical, a certified N.C. Historically Underutilized Business, was selected to provide materials for the utility work. It was discovered at the conclusion of the project that Charles D. Lowder, Inc. purchased some of the required materials from another, non-M/WBE vendor during the course of construction. The contractor contended that there were challenges with the timely delivery of the product from the vendor which prompted a new vendor to be selected. As a result, the \$320,000 commitment to Wallace Mechanical was not paid in full which drastically affected the MBE percentages. In total, \$1,175,143.49 (16.84%) was spent with certified WBE's and \$165,883.83 (2.38%) was spent with Wallace Mechanical. The MBE participation goal for the project was 5%. The original contract amount for the 28<sup>th</sup> Street Project was \$6,399,703.00. The amount remaining to be released from retainage is \$49,992.58.

As a result of the contractor's failure to achieve the participation goals, staff requested documentation to determine whether a good faith effort had been made. The M/WBE Advisory Committee convened in March to review the documentation provided by the contractor and, by a vote of 6 to 2, determined that a good faith effort was not made by Charles D. Lowder, Inc. to meet the M/WBE goals. Key factors contributing to the committee's determination included: lack of communication between the general contractor and subcontractor, lack of proper notice and/or negotiation of scheduling, and failure of the contractor to correspond with and submit appropriate documentation to the Business Inclusion staff.

In an effort to compensate for under spending with Wallace Mechanical on the 28<sup>th</sup> Street Project, Charles D. Lowder, Inc. committed to purchase all water piping from Wallace Mechanical on the Ardmore Basin 1 Water-Sewer Rehab project. Per Affidavit E, the "Minority Utilization Commitment Form" for Ardmore Basin 1 Water-Sewer Rehab, \$300,700.00 was to be spent with Wallace Mechanical. To date, \$342,400 has been paid to Wallace Mechanical on the project.

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**City Council:** Mayor Allen Joines; Vivian H. Burke, Mayor Pro Tempore, Northeast Ward; Denise D. Adams, North Ward; Dan Besse, Southwest Ward; Robert C. Clark, West Ward; John C. Larson, South Ward; Jeff MacIntosh, Northwest Ward; Derwin L. Montgomery, East Ward; James Taylor, Jr., Southeast Ward; City Manager: Lee D. Garrity