



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Matt Loesch

**SUBJECT:** SEE BELOW

**DATE:** May 28, 2024

Approved

Date

6/6/24

**COUNCIL DISTRICT: 4**

**SUBJECT: REPORT ON BIDS AND AWARD OF CONTRACT FOR 9220 – CHARCOT AREA STORM DRAIN IMPROVEMENTS – MEASURE T (PACKAGE I) PROJECT**

## RECOMMENDATION

- (a) Report on bids and award of a contract for the construction of 9220 – Charcot Area Storm Drain Improvements – Measure T (Package I) Project to the lowest responsive, responsible bidder, JMB Construction, Inc., in the amount of \$18,180,425; and
- (b) Approve a 10% contingency in the amount of \$1,818,043.

## SUMMARY AND OUTCOME

This memorandum summarizes the bids received and requests the award of a contract for the construction of the 9220 – Charcot Area Storm Drain Improvements – Measure T (Package I) Project (Project). The Project will increase storm drainage capacity and reduce potential local flooding within the Charcot drainage area (**Attachment A** – Location Map – 9220 – Charcot Area Storm Drain Improvements – Measure T (Package I).)

Award of the contract to JMB Construction, Inc. will enable the Project to proceed into construction. Approval of a 10% contingency will provide funding for any unanticipated work necessary for the proper construction or completion of the Project.

## BACKGROUND

On November 6, 2018, City of San José voters approved the Measure T – The Disaster Preparedness, Public Safety, and Infrastructure General Obligation Bond. The measure

authorizes the City to issue up to \$650 million in general obligation bonds for infrastructure projects. Within the Measure T program, approximately \$28.3 million is allocated to flood improvement projects.

The Project serves approximately 420 acres of City Council Districts 4 and 3. The scope of the Project will increase storm drainage capacity within the Charcot Storm Drain system by constructing a diversion structure along Bering Drive and up-sizing multiple storm sewers along Charcot Avenue. This project will install approximately 4,200 feet of 72-inch to 96-inch diameter reinforced concrete pipe and will also include approximately 220 feet of trenchless micro-tunneling under Santa Clara Valley Transportation Authority light rail tracks at the intersection of North First Street and Charcot Avenue. In addition, approximately 20 storm manholes will be removed and replaced and one new cast-in-place junction structure will be installed.

Construction is anticipated to begin in August 2024 and be completed by October 2025.

### **ANALYSIS**

Due to the complex nature of the Project involving micro-tunneling underneath the Santa Clara Valley Transportation Authority light rail tracks, the City conducted a pre-qualification process as part of this procurement on January 17, 2024 to ensure bidders are qualified to construct the Project. On February 21, 2024, the City received five submittals in response to the Request for Pre-Qualification, and after evaluating bidders' prior project experience, labor compliance, safety history, and other factors, staff determined that four bidders met the pre-qualification requirements. Three of the pre-qualified bidders subsequently submitted bids when the Request for Bids was issued.

Bids were opened on May 9, 2024, with the following results.

| <b><u>Contractor</u></b>                        | <b><u>Bid Amount</u></b> | <b><u>Variance Amount</u></b> | <b><u>Over/(Under) Percent</u></b> |
|---|--------------------------|-------------------------------|------------------------------------|
| JMB Construction, Inc.<br>(South San Francisco) | \$18,180,425             | (\$3,119,575)                 | (15)                               |
| <b>Engineer's Estimate</b>                      | <b>\$21,300,000</b>      | ---                           | ---                                |
| Steve P. Rados, Inc.<br>(Santa Ana)             | \$23,343,460             | \$2,043,460                   | 10                                 |
| Garney Pacific, Inc.<br>(Tracy)                 | \$29,816,075             | \$8,516,075                   | 40                                 |

The low bid submitted by JMB Construction, Inc. is 15% under the Engineer's Estimate. Staff considers this reasonable for the work involved. The lower than estimated bid can be attributed to a competitive bidding environment as well as the contractor's familiarity with this type of work.

The contractor has successfully performed work for the City, including several construction projects. Examples of recent projects are the 9478 – Large Trash Capture Device – Sonora and Oswego Retrofits Project and the 7699 – Citywide Outfall Rehabilitation (Six Outfalls) Project.

#### *Contingency*

San José Municipal Code Section 27.04.050 provides for a standard contingency of 10% on all public works contracts except those involving the renovation of a building or buildings. The standard 10% contingency is appropriate for this Project.

#### *Wage Theft Prevention Policy Check*

The Office of Equality Assurance reviewed bidders for compliance with the City's Wage Theft Prevention Policy on May 9, 2024 and on May 15, 2024. No Wage theft issues were identified.

#### *Project Labor Agreement Applicability*

The City's Project Labor Agreement is applicable to the Project because the Engineer's Estimate is over \$1.22 million.

#### *Local and Small Business Analysis*

The recommended contractor is not a local nor a small business enterprise. In addition, no local or small business enterprises were listed as subcontractors.

### **EVALUATION AND FOLLOW-UP**

No additional follow-up action with the City Council is expected.

### **COST SUMMARY/IMPLICATIONS**

The total contract award amount is detailed below for the Project. Source of funding for this Project comes from the Measure T – Clean Water Projects fund.

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1. TOTAL COST OF PROJECT:

|                                      |                     |
|--------------------------------------|---------------------|
| Project Delivery*                    | \$3,989,000         |
| Construction                         | 18,180,425          |
| Contingency                          | 1,818,043           |
| <b>TOTAL PROJECT COSTS</b>           | <b>\$23,987,468</b> |
| Prior Years' Expenditures            | (\$2,200,000)       |
| <b>TOTAL REMAINING PROJECT COSTS</b> | <b>\$21,787,468</b> |

\*Project delivery includes \$2,300,000 for design services and \$1,689,000 for construction management, inspection services, survey, materials lab services, utilities, and project closeout costs.

2. COST ELEMENTS OF CONTRACT:

|   |                     |
|---|---------------------|
| Mobilization, Permits and Traffic Control | \$2,876,800         |
| Pipe and Structural Installation          | 12,447,250          |
| Micro-tunneling                           | 2,256,000           |
| Other Construction Costs                  | 600,375             |
| <b>TOTAL AGREEMENT/CONTRACT AMOUNT</b>    | <b>\$18,180,425</b> |

**BUDGET REFERENCE**

The table below identifies the fund and appropriations to fund the contract recommended as part of this memorandum and remaining project costs, including project delivery, construction, and contingency costs.

| Fund # | Appn # | Appn Name  | Total Appn*  | Amt. for Contract | 2024-2025 Proposed Capital Budget Page** | Last Budget Action (Date, Ord. No.) |
|--------|--------|--|--------------|-------------------|--|-------------------------------------|
| 498    | 414T   | Measure T-Storm Drain Improvements at Charcot Avenue | \$11,723,000 | \$18,180,425      | 175                                      | TBD                                 |

\* This contract is expected to span 2024-2025 and 2025-2026, with \$11.7 million allocated in 2024-2025 and \$12.7 allocated in the subsequent year. As such, there is sufficient budget to award the contract and complete the project. Any funds remaining in this project will be reallocated to other Measure T projects for the Storm Sewer System.

\*\* The 2024-2025 Capital Budget is scheduled to be adopted by City Council on June 18, 2024.

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### **COORDINATION**

This memorandum has been coordinated with the City Attorney’s Office, the City Manager’s Budget Office, the Planning, Building, and Code Enforcement Department, and the Transportation Department.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City’s Council Agenda website for the June 18, 2024 City Council meeting.

### **COMMISSION RECOMMENDATION AND INPUT**

No commission recommendation or input is associated with this action.

### **CEQA**

Categorically Exempt, File No. ER24-097, CEQA Guidelines Section 15301, Existing Facilities, Section 15302, Replacement or Reconstruction, and Section 15304, Minor Alteration to Land, adopted on May 1, 2024. (**Attachment B** – Statement of Exemption, ER24-097)

### **PUBLIC SUBSIDY REPORTING**

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City’s Open Government Resolution.

/s/

MATT LOESCH

Director, Department of Public Works

For questions, please contact Mathew Nguyen, Public Works Deputy Director, at Mathew.Nguyen@sanjoseca.gov or (408) 535-8300.

### **ATTACHMENTS:**

Attachment A – Location Map - 9220 - Charcot Area Storm Drain Improvements - Measure T (Package I)

Attachment B – Statement of Exemption, ER24-097

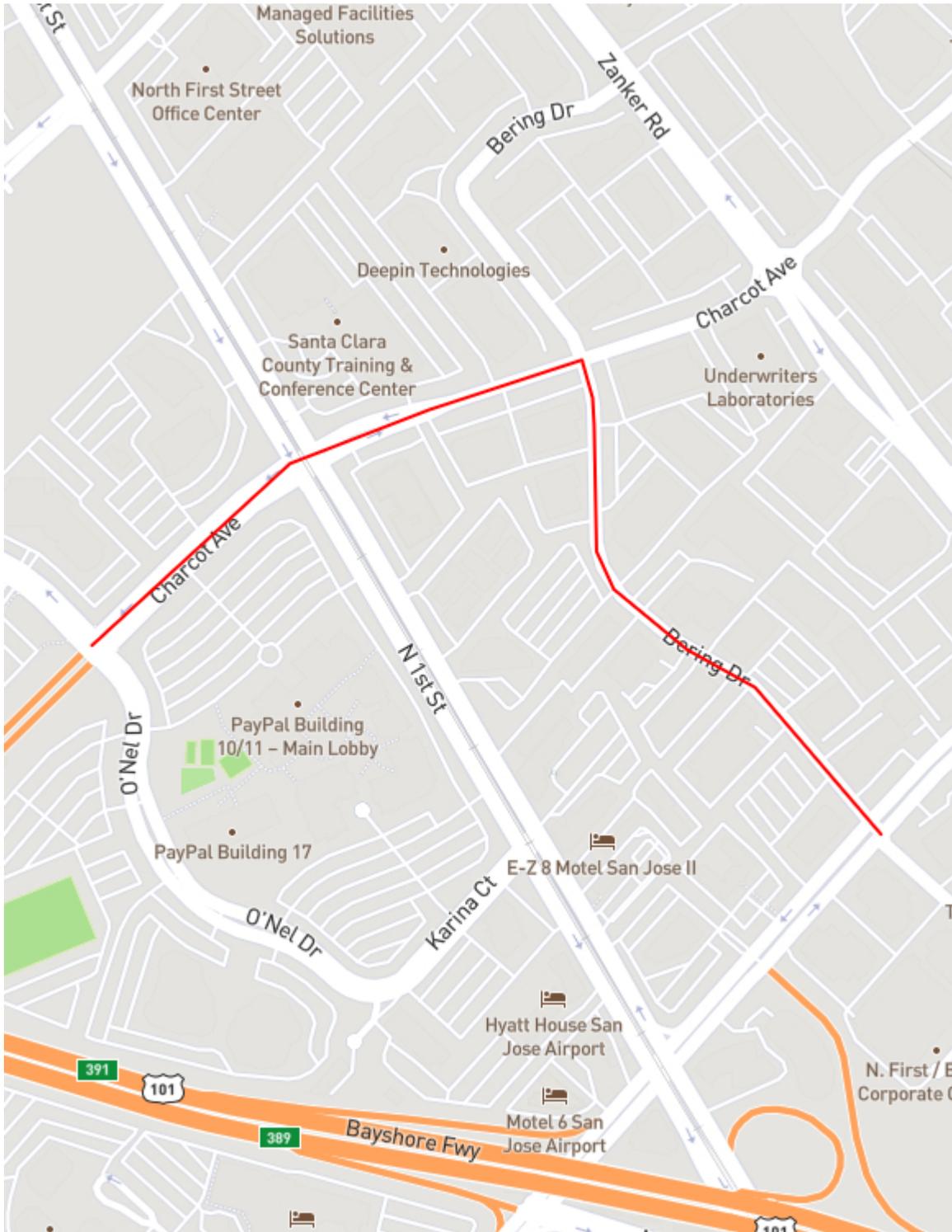
## Location Map

### Department of Public Works

#### 9220 - Charcot Area Storm Drain Improvements - Measure T (Package I)

##### Location

E. Brokaw Road, Bering Drive, Charcot Ave, and Orchard Parkway





*Planning, Building and Code Enforcement*

CHRISTOPHER BURTON, DIRECTOR

**STATEMENT OF EXEMPTION**

|                             |  |
|-----------------------------|--|
| <b>FILE NO.</b>             | ER24-097   |
| <b>LOCATION OF PROPERTY</b> | Charcot Avenue, East Brokaw Road, Bering Drive, Rogers Avenue  |
| <b>PROJECT DESCRIPTION</b>  | The City of San José (City) proposes minor alterations to the existing storm drain infrastructure within the Charcot Avenue, Brokaw Road, and Rogers Avenue rights-of-way between Orchard Parkway and approximately 140 feet north of the railroad tracks on Rogers Avenue in north San José. The project would not include any improvements at storm drain outfalls or any waterways. The project would serve existing development and would not expand the overall capacity of the system or allow for growth that would have the potential to result in environmental impacts. The project would be completed in multiple phases. |

**CERTIFICATION**

Under the provisions of Section 15301. Existing Facilities, Section 15302 (c). Replacement or Reconstruction, and Section 15304. Minor Alteration to Land of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

**15301. Existing Facilities**

Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

- (b) Existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services.

**15302. Replacement or Reconstruction**

Class 2 consists of the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

- (c) Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity.

#### **15304. Minor Alteration to Land**

Class 4 consists of minor public or private alterations in the conditions of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes.

- (f) Minor trenching and backfilling where the surface is restored.

### **ANALYSIS**

The proposed minor alterations to storm drain infrastructure meet the criteria for Class 1(b) Existing Facilities, Class 2(c) Replacement or Reconstruction, and Class 4 (f) Minor Alteration to Lands exemptions. None of the exceptions to the exemptions set forth in CEQA Guidelines Section 15300.2 apply to the project. Per section 15300.2 of the CEQA Guidelines, it has been determined the project is not located on a hazardous waste site included on list compiled pursuant to Section 65962.5 of the Government Code and would not result in a significant impact due to unusual circumstances, damage scenic resources within a designated state scenic highway, affect a historic resource, impact an environmental resource of hazardous or critical concern or result in a cumulative impact. For these reasons, the project is exempt from the provisions of CEQA.

#### *Exceptions:*

CEQA Guidelines Section 15300.2 provides exceptions to the use of Categorical Exemptions where the use of a Categorical Exemption is prohibited under certain circumstances. The City has considered the project's applicability to all of the exceptions under Section 15300.2. An analysis of each of these exceptions in reference to this specific project is provided below.

- (a) Location. Class 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located. Section 15300.2(a) states that a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. The proposed project is categorically exempt under Class 1, Class 2, and Class 4. As discussed under Project Description above, the project site is located in an urban area and entirely within existing public rights-of-way in the City of San José. The project site is not located within a wildfire hazard severity zone of either state or local responsibility and would, therefore, not result in significant impacts due to its location. The nearest airport to the project site is Norman Y. Mineta San José International Airport, located approximately 0.7 miles west of the project boundaries. Although the project site is located near the Norman Y. Mineta San José International Airport, the project site is not within the Airport Influence Area and would, therefore, not result in significant impacts due to its location. Furthermore, the site is designated as Urban-Suburban land in the Santa Clara Valley Habitat Plan and does not contain habitat for special status plant or wildlife species. For these reasons, implementation of the proposed project would not result in significant impacts to environmental resources of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
- (b) Cumulative Impact. The proposed project involves the replacement of existing storm drain pipes and

manholes within existing city-rights of way. As discussed above, the project would not include any improvements to stormdrain outfalls or waterways, and the project would not extend stormdrain lines beyond the existing service boundaries. Therefore, the project would not result in an expansion of the existing use. Upon approval of the project, construction and operation of the project would occur with no additional comparable uses proposed or anticipated to be developed in the future. For these reasons, a significant cumulative impact from successive projects of the same type in the same place, overtime would not occur.

- (c) Significant Effect. There are no unusual circumstances associated with the proposed project. The replacement of existing storm drain pipes and manholes would occur within existing City rights-of-way in an urban area surrounded by existing development. Storm drain facilities are commonly located within public rights-of-way and require replacement when these facilities reach the end of their useful life. Construction activities associated with the proposed storm drain improvements are typical for pipeline improvements within public rights-of-way. For these reasons, the proposed project would not result in a significant effect on the environment due to an unusual circumstance.
- (d) Scenic Highways. The nearest state designated scenic highway is State Route 9, which is located approximately 10-miles west of the project site. The project, therefore, would not damage scenic resources within a designated state scenic highway.
- (e) Hazardous Waste Sites. The project site is not included on list compiled pursuant to Section 65962.5 of the Government Code (i.e., Cortese List). Therefore, this exception does not apply to the project.
- (f) Historical Resources. There are no existing structures or historic resources located within the project alignment. Five previously recorded archaeological resources and one historic district was identified within 0.25-mile of the project alignment. The project would replace existing stormwater facilities within public rights-of-way. All construction activities associated with the proposed project are proposed within existing public rights-of-way and would not be located within or adjacent to known historic resources. For these reasons, the proposed project would not result in direct or indirect impacts to the nearby historic district and would not result in impacts to known archaeological resources.

CHRISTOPHER BURTON, Director  
Planning, Building and Code Enforcement



Deputy

Date May 1, 2024

Environmental Project Manager: Tina Garg, Supervising Planner