



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jeff Provenzano

SUBJECT: See Below

DATE: May 21, 2025

Approved

Date:

5/28/25

COUNCIL DISTRICT: Citywide

SUBJECT: Actions Related to the 10541 - On-Call Construction Contract for Repairs of Water Services and Mains 2025-2028

RECOMMENDATION

Award of a contract for the 10541 – On-Call Construction Contract for Repairs of Water Services and Mains 2025-2028 project to San José Water Company, pursuant to City of San José Charter Section 1217 (h), for a maximum amount not to exceed \$3,300,000 and for a term of three years.

SUMMARY AND OUTCOME

Approval of the recommendation will enable the continued repair of existing water mains, services, and other associated infrastructure, which will provide a reliable source of water to San José Municipal Water System (Muni Water) and South Bay Water Recycling Program customers.

BACKGROUND

Muni Water and South Bay Water Recycling Program are currently using the “10166 - Repairs of Water Services and Mains: 2022-2025” contract to perform needed repairs on existing potable and recycled water infrastructure, such as repair of a water main break or a leaking hydrant. The current contract was awarded by the City Council on June 14, 2022, to the lowest responsive, responsible bidder, San José Water Company in an amount not to exceed \$2,922,647. The current contract will expire in August 2025, and the new contract, 10541 – On-Call Construction Contract for Repairs of Water Services and Mains 2025-2028, will take its place.

The 10541 – On-Call Construction Contract for Repairs of Water Services and Mains 2025-2028 project was initiated to procure a new on-call construction contract in the set amount of \$3,300,000 for a duration of three years (2025-2028). The bidding documents include unit prices for a list of identified labor, material, and equipment categories, along with estimated quantities of these items that would potentially be used under the contract; the bid unit prices are used to identify the lowest responsive bidder which would be awarded a contract valued at \$3,300,000. Actual payments under the contract are made based on work completed, invoiced on a time and material basis in accordance with the identified unit pricing.

The repair work under this contract consists of repairing water mains, service laterals, hydrants, and other existing infrastructure, which includes furnishing and repairing all pipes, valves, fittings, and other appurtenances as necessary to complete repairs. The contractor will be required to respond to emergency repairs (main breaks, etc.) within two hours and to effect permanent repairs within a designated time frame. The contract will be used on an as-needed basis, and the contractor will be paid based on the actual labor, equipment, and material costs of the work completed as calculated based on the bid unit prices, up to the maximum contract amount.

ANALYSIS

A competitive procurement was conducted between April and May 2025, for this project. Despite outreach to contractors holding specialized licenses to perform this work, no bids were received at bid closing on May 8, 2025. Following the unsuccessful competitive procurement, City staff conducted outreach to contractors showing interest in the project during the advertisement period to understand why the project received no bids. The general feedback received indicated that contractors did not have sufficient staffing levels and/or could not adequately plan for or provide the work due to the 24-hour on-call nature of the project. Staff also confirmed that while San José Water Company had prepared documents and intended to bid on the project, due to technical errors during the submittal process their bid was not officially submitted prior to the submittal deadline.

Under Charter Section 1217 (h), the City Council can decide to not further comply with the City's competitive bidding requirements when no bids are received. In practice, foregoing additional competitive bidding means selecting a contractor, negotiating a construction contract, and awarding that contract.

San José Water Company has contracted with the City for over 20 years for this work and based on their attempt to submit a bid during the procurement process, has continued interest in providing the services. Therefore, staff solicited bid pricing from San José Water Company to negotiate a contract, and San José Water Company subsequently submitted a bid totaling \$9,013,540. Their submitted unit prices

represented increases between 200% and 380% above the current contract prices, resulting in a total bid that was 270% of the Engineer's Estimate of \$3,340,805. Staff reviewed the higher than anticipated bid with San José Water Company representatives to discuss the increase in pricing and requested that bid prices be reassessed to ensure they were a fair and reasonable representation of the cost to provide the services. Subsequently, San José Water Company submitted a revised bid of \$5,410,871, which contained more varied unit price increases and resulted in a total bid that was 162% of the Engineer's Estimate.

The as-needed work to repair breaks to water mains and services that is provided under this contract is essential for ensuring continued reliability and safety of the water system. Therefore, staff recommends that the City Council award the negotiated contract to San José Water Company, whose bid has been reviewed, analyzed, and found acceptable for experience and licensing requirements.

While the as-needed services are continued under this new contract, staff will be evaluating alternative delivery options that would continue these critical services at a lower cost.

Wage Theft Prevention Policy Check

The Office of Equality Assurance reviewed San José Water Company for compliance with the City's Wage Theft Prevention Policy on April 24, 2025 and again on May 9, 2025. No wage theft issues were identified.

Project Labor Agreement Applicability

The City's Project Labor Agreement is applicable to this project as the Engineer's Estimate is over \$1.21 million.

Policy Alternatives

Alternative # 1: Do not directly award the contract and re-bid the contract.

Pros: The project moves through a more typical public procurement process, allowing an additional opportunity for qualified contractors to bid on it.

Cons: There is no guarantee that a second attempt to bid the project will result in responsive bids and/or lower pricing. Outreach from the previous bid shows that the project's 24-hour on-call nature is a limiting factor to the pool of qualified contractors.

Reason for not recommending: Muni Water's current on-call contract expires in August 2025, and the project has already attempted a public bid procurement, resulting in no responsive bids. Charter Section 1217 (h) gives the City Council the authority to directly award a contract, which would allow the project to move forward so that critical services are continued with no service interruption to customers.

Alternative # 2: Provide the as-needed repair services with in-house resources.

Pros: Providing these services in-house allows for greater control of cost and expenditures.

Cons: Existing staffing, material, and heavy equipment resources are insufficiently available to complete this work in-house at present, which would likely result in extended distribution system/water outages.

Reason for not recommending: Additional staffing, equipment, and material procurement resources would need to be secured to allow for a transition to in-house service delivery.

Local and Small Business Analysis

Procurement staff used Biddingo to outreach to local and small business enterprises. Chapter 4.12 of the San José Municipal Code defines a “local business enterprise” as one with a legitimate business presence in Santa Clara County and “small business enterprise” as a local business enterprise with 35 or fewer employees. Documents were downloaded by nine vendors, approximately two of which are located within Santa Clara County and therefore local. The recommended contractor is local but is not a small business enterprise.

EVALUATION AND FOLLOW-UP

Staff will be monitoring expenditures under the contract and may need to return to City Council to recommend allocation of additional funding for the contract, or to identify a replacement contract and/or service delivery method prior to completion of the three-year term of the new contract.

COST SUMMARY/IMPLICATIONS

The on-call contract has a set maximum compensation of \$3,300,000 as identified in the project specifications, which was anticipated to be funded over a period of three years (2025-2028). Due to the higher than anticipated contract pricing, staff will closely track the expenses of completed as-needed work to identify whether additional funding needs to be authorized for the contract. If additional funding is necessary for continued provision of these services, accommodating appropriation adjustments may be recommended in future budget processes.

The contractor will be paid based on the quantity of work done and invoiced on the basis of time and materials under the contract’s established bid unit prices. The contract has a maximum compensation of \$3,300,000, which will be funded over three years from within the Water Utility Capital Fund and Operating Fund subject to the appropriation of funding within future budgets. Funding will be utilized based on the

actual needs for water utility repairs over the term of the contract, up to the contract's maximum compensation amount.

1. **TOTAL COST OF PROJECT**

Project Delivery*	\$125,000
Construction	\$3,300,000
TOTAL PROJECT COSTS	\$3,425,000

*Project Delivery includes \$25,000 for design and project management services, and \$100,000 for construction management and inspection services.
2. **COST ELEMENTS OF CONTRACT AS RECOMMENDED AS PART OF THE MEMORANDUM**

Construction	\$3,300,000
TOTAL CONTRACT AMOUNT	\$3,300,000
3. **SOURCE OF FUNDING:** 500 – Water Utility Capital Fund; 515 – Water Utility Operating Fund; 570 – South Bay Water Recycling Operating Fund
4. **FISCAL IMPACT:** There are no cost implications to the General Fund as a result of this action.

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 and construction costs.

Fund #	Appn. #	Appropriation Name	Total Appropriation	Amount for Contract	2025-2026 Proposed Operating and 2025-2027 Proposed Capital Budget Page	Last Budget Action (Date, Ord. No.)
500	5366	Infrastructure Improvements	\$770,000	\$150,000	Capital - 312	N/A
500	5876	System Maintenance / Repairs	\$920,000	\$850,000	Capital - 319	N/A
515	0762	Non-Personal / Equipment	\$55,913,308	\$150,000	Operating - 956	N/A
570	0762	Non-Personal / Equipment	\$8,418,090	\$150,000	Operating - 946	N/A

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The total contract amount is \$3,300,000; however, the total cost of the project may be distributed among existing appropriations within the 2025-2026, 2026-2027, and 2027-2028 fiscal years. Funding in each of these fiscal years is subject to appropriation by City Council.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the June 17, 2025 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

This item is scheduled to be heard at the June 12, 2025 Treatment Plant Advisory Committee meeting. A supplemental memorandum with the committee's recommendation will be included in the amended June 17, 2025 City Council meeting agenda.

CEQA

Exempt, File No. ER25-069, CEQA Guidelines Sections 15301 Existing Facilities and Section 15302 Replace or Reconstruction.

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/

Jeff Provenzano
Director, Environmental Services

For questions, please contact Nicole Harvie, Principal Engineer, Environmental Services Department, at Nicole.Harvie@sanjoseca.gov or (408) 277-3671.