



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Ristow
Matt Loesch

SUBJECT: See Below

DATE: November 24, 2025

Approved

Date:

12/3/25

COUNCIL DISTRICTS: 2, 5, 7, 8

SUBJECT: Report on Bids and Award of Contract for the 10594 – 2026 Local Streets ADA Curb Ramps #2 Project

RECOMMENDATION

- (a) Report on bids and award a contract for the construction of 10594 – 2026 Local Streets ADA Curb Ramps #2 Project to the lowest responsive, responsible bidder, Spencon Construction, Inc., in the amount of \$1,224,200; and
- (b) Approve a 10% contingency in the amount of \$122,420.

SUMMARY AND OUTCOME

Award of the contract to Spencon Construction, Inc. enables the construction of the 10594 – 2026 Local Streets ADA Curb Ramps #2 Project (Project), which involves upgrading and constructing Americans with Disabilities Act (ADA) compliant wheelchair ramps at various locations citywide in preparation for the 2026 Local Streets Pavement Maintenance Program. Approval of the 10% contingency will provide funding for any unanticipated work necessary for the proper completion or construction of the Project.

BACKGROUND

The Department of Transportation will maintain approximately 95 miles of roadway on the Local Streets Network during the 2026 construction season. As part of the annual pavement maintenance program, the Department of Transportation incorporates preventive maintenance treatments, such as surface sealing and resurfacing, to extend pavement life, improve ride quality, and reduce long-term maintenance costs. Per Title 28 Section 35.151 of the Code of Federal Regulations, ADA compliant curb ramp installations and retrofits are typically required when pavement treatments involve

alterations to the roadways. These curb ramps provide safe and accessible pedestrian crossings for all users, including individuals with disabilities, and ensures that San José's infrastructure meets current accessibility standards.

The ADA curb ramp installation work typically includes removal of existing non-compliant curb ramps or barriers, grading and pouring of new compliant curb ramps, installation of detectable warning surfaces, and restoration of adjacent sidewalk and roadway surfaces.

To develop the curb ramp candidate list, the Department of Transportation utilized data collected in the OpenGov Enterprise Asset Management tool, which tracks curb ramp conditions and compliance status. The candidate list is further refined by staff using the following criteria to select the streets for pavement maintenance and consequently, the curb ramps on those streets:

- Funding availability and funding use restrictions;
- Total miles of streets in different rehabilitation and maintenance categories;
- Streets not affected by current or future street-related projects;
- Maintenance history and prescribed treatment schedules;
- Existing conditions and compliance needs;
- Equity and community needs;
- Community and City Council office feedback regarding roadway conditions and priority street segments; and
- Coordination with other planned or utility projects.

Construction is scheduled to begin in March 2026 with substantial completion anticipated by June 2026.

Attachment A – List of Locations, includes the list of ADA curb ramps proposed for installation or retrofits as part of this Project. This list is subject to change if unforeseen circumstances arise or if new information about other street-related projects become available.

Subject: Report on Bids and Award of Contract for the 10594 – 2026 Local Streets ADA Curb Ramps #2 Project

Page 3

ANALYSIS

Bid Results

Bids were opened on October 16, 2025, with the following results:

<u>Contractor</u>	<u>Bid Amount</u>	<u>Variance Amount</u>	<u>Over/(Under) Percent</u>
Duran Construction Group, Inc. (San José) (non-responsive)	\$1,219,770	(\$325,230)	(21)
Spencon Construction, Inc. (Sunnyvale)	\$1,224,200	(\$320,800)	(21)
JJR Construction, Inc. (San José)	\$1,244,625	(\$300,374)	(19)
QLM, Inc. (San José)	\$1,256,300	(\$288,700)	(19)
R&S Construction Management, Inc. (San Francisco)	\$1,275,970	(\$269,030)	(17)
Wattis Construction Company, Inc. (San José)	\$1,285,651	(\$259,349)	(17)
Engineer's Estimate	\$1,545,000	--	--
Zara Construction, Inc. (Sacramento)	\$1,597,590	\$52,590	3
FBD Vanguard Construction, Inc. (Livermore)	\$1,768,800	\$223,800	14

Procurement Issues

The bid from Duran Construction Group, Inc. was deemed non-responsive for failing to meet the City of San José's (City) experience requirements and for failing to submit a California Air Resources Board (CARB) Off-Road Regulation Certificate(s) of Reported Compliance for any designated subcontractor with fleets subject to such regulations.

Since 2008, CARB has regulated certain types of construction vehicles through the In-Use Off-Road Diesel-Fueled Fleets Regulation (Off-Road Regulation). The Off-Road Regulation requires contractors and other fleet owners to reduce their emissions by retiring older vehicles and replacing the retired vehicles with newer vehicles, repowering older engines, or installing verified diesel emission control strategies in older engines; and by restricting the addition of older vehicles to fleets.

In 2022, CARB approved amendments to the Off-Road Regulation aimed at “[establishing] a proactive check at the onset of a project or at contract renewal to encourage fleets to comply with the regulation...[and] also safeguard against the unfair monetary advantage of non-compliance and thus help level the playing field for all fleets.”¹ The amendments, which went into effect January 1, 2024, require public agencies to obtain a valid Off-Road Certificate of Reported Compliance for the fleets and subcontractors that are listed in the contract. The certificates must be obtained by the public agency prior to entering into a public works contract.

In accordance with the Off-Road Regulation, the City has, since January 2024, required that bidders provide CARB compliance documentation with each bid.

On October 22, 2025, the City issued a notice of intent to award notifying Duran Construction Group that its bid was non-responsive and stating the City’s intent to award the contract to the lowest responsive, responsible bidder, Spencon Construction, Inc. On October 27, 2025, Duran Construction Group submitted a written protest to the City (Attachment B – Protest Submitted by Duran Construction Group) requesting that the City waive the irregularities in its bid. On October 29, 2025, the City’s Public Works Department responded to Duran Construction Group by declining its request and stating that the City would continue to recommend award to Spencon Construction, Inc. (Attachment C – City’s Response to Duran Construction Group’s Bid Protest).

Bid Price Analysis

The low bid submitted by Spencon Construction, Inc. is 21% below the Engineer’s Estimate. The bids are lower than the Engineer’s Estimate likely due to competitive contractor pricing and market efficiencies identified.

The Engineer’s Estimate was developed using recent bid data from smaller-scale ADA curb ramp projects, as this is the first major curb ramp project undertaken by the team in several years. While this approach provided a basis for estimating, it may have resulted in higher projected cost compared to current market pricing for a larger-scale project.

Staff has determined that the submitted low bid is reasonable and acceptable for the scope of work.

Contractor Prior Experience

Spencon Construction, Inc. has successfully completed numerous ADA curb ramp projects for the City including: 8300 – 2016 ADA Sidewalk Accessibility Ramps Project; 9050 – 2019 Major Streets Concrete and ADA Ramps Project #2; 9951 – 2021 ADA

¹ CARB Amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation website: <https://ww2.arb.ca.gov/resources/fact-sheets/fact-sheet-contracting-requirements>

Subject: Report on Bids and Award of Contract for the 10594 – 2026 Local Streets ADA Curb Ramps #2 Project

Page 5

Curb Ramp Request Project #2 – Sustainable Mix Design; 10060 – 2022 Major Streets Concrete and ADA Ramp Minor Project #1; 10231 – 2023 MS ADA Ramp Minor Project #2; 10348 – 2024 LS ADA Ramps #1 Project; and 10473 – 2025 LS ADA Ramps #1 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 building or buildings. The standard contingency is appropriate for the Project.

Wage Theft Prevention Policy Check

The Department of Public Works' Office of Equality Assurance reviewed bidders for compliance with the City's Wage Theft Prevention Policy on October 16, 2025, and again on October 29, 2025. A wage violation was identified which fell within the policy's five-year enforcement window for the following contractor: Spencon Construction, Inc. However, in accordance with the Wage Theft Prevention Policy, the violation did not meet or exceed the threshold for mandatory disqualification. The bidder was allowed to proceed in the procurement process.

Project Labor Agreement Applicability

The City's Project Labor Agreement is applicable to this Project because at the time of advertisement, the Project Labor Agreement applied to any project with an Engineer's Estimate over \$1.21 million.

Local and Small Business Outreach

Spencon Construction, Inc. is a local and small business enterprise. No subcontractors are listed for the Project.

EVALUATION AND FOLLOW-UP

The Department of Transportation continuously evaluates the condition of San José's pavement and regularly reports its findings to the Transportation and Environment Committee. In addition to the Project discussed in this memorandum, seven additional pavement maintenance projects are scheduled for City Council consideration this spring. These include seven contracts for surface sealing or resurfacing, covering a combined total of approximately 143 miles of streets planned for maintenance in the 2026 construction season.

COST SUMMARY/IMPLICATIONS

This project supports the Transportation and Aviation Services City Service Area goal to provide a safe and secure transportation system that enhances community livability. In compliance with federal ADA requirements, the City must ensure that all ADA curb ramps are upgraded to current standards on streets scheduled for maintenance. The source of funding for this project is included in the 2025-2027 Adopted Biennial Capital Budget in the VTA Measure B Pavement Maintenance Fund (Fund 486). This project will have no net operating and maintenance costs to the General Fund.

1. TOTAL COST OF PROJECT

Programmatic Project Delivery	\$122,420
Construction	1,224,200
Contingency	122,420
TOTAL PROJECT COSTS	\$1,469,040

2. COST ELEMENTS OF CONTRACT AS RECOMMENDED AS PART OF THE MEMORANDUM:

Concrete ADA Curb Ramps	\$1,202,550
Construction Material Removal and Replacement	3,900
Utility Modification	2,750
Other Construction Costs	15,000
TOTAL CONTRACT AMOUNT	\$1,224,200

BUDGET REFERENCE

The following table 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.

Subject: Report on Bids and Award of Contract for the 10594 – 2026 Local Streets ADA Curb Ramps #2 Project
Page 7

Fund #	Appn. #	Appropriation Name	Total Appropriation	Amount for Contract	2025-2027 Adopted Biennial Capital Budget Page	Last Budget Action (Date, Ord. No.)
486	403Q	Pavement Maintenance – VTA 2016 Measure B	\$35,734,000	\$1,224,200	1008	10/21/2025 31252

COORDINATION

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

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the December 16, 2025 City Council meeting.

When the Project commences, the contractor will provide advance notification regarding working hours, project duration, and any appropriate schedule and lane closures to affected businesses and residents, as stated in the specifications.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Categorically Exempt, File No. ER24-313, CEQA Guidelines Section 15301(c), Existing Facilities.

HONORABLE MAYOR AND CITY COUNCIL

November 24, 2025

Subject: Report on Bids and Award of Contract for the 10594 – 2026 Local Streets ADA Curb Ramps #2 Project

Page 8

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/

John Ristow

Director, Department of Transportation

/s/

Matt Loesch

Director, Public Works Department

For questions, please contact Jennifer Seguin, Deputy Director, Department of Transportation, at jennifer.seguin@sanjoseca.gov or Katherine Brown, Assistant Director, Public Works Department at katherine.brown@sanjoseca.gov.

ATTACHMENTS:

Attachment A – List of Locations

Attachment B – Protest Submitted by Duran Construction Group

Attachment C – City's Response to Duran Construction Group's Bid Protest

List of Locations

Intersection	Direction	CD
Barnswell Wy & Grandwell Wy	SE	2
Barnswell Wy & Grandwell Wy	SW	2
Dearwell Wy & Fordwell Ct	NW	2
Dearwell Wy & Fordwell Ct	SW	2
Dearwell Wy & Knollwell Wy	NE	2
Dearwell Wy & Knollwell Wy	SE	2
Dearwell Wy & Knollwell Wy & Linwell Ct	NE	2
Dearwell Wy & Knollwell Wy & Linwell Ct	NW	2
Dearwell Wy & Knollwell Wy & Linwell Ct	SE	2
Dearwell Wy & Knollwell Wy & Linwell Ct	SW	2
Felice Ct & Prindiville Dr	NE	2
Felice Ct & Prindiville Dr	SE	2
Finchwell Ct & Knollwell Wy	NW	2
Finchwell Ct & Knollwell Wy	SW	2
Flintwell Wy & Harwell Ct	SE	2
Flintwell Wy & Harwell Ct	SW	2
Flintwell Wy & Knollwell Wy	SE	2
Flintwell Wy & Knollwell Wy	SW	2
Flintwell Wy & Sagewell Wy	NE	2
Flintwell Wy & Sagewell Wy	NW	2
Forsum Rd / Forsum Ct & Forsum Dr	NE	2
Forsum Rd / Forsum Ct & Forsum Dr	NW	2
Forsum Rd / Forsum Ct & Forsum Dr	SW	2
Forsum Rd / Forsum Dr & Urshan Wy	NW	2
Forsum Rd / Forsum Dr & Urshan Wy	SW	2
Forsum Rd & Menard Dr	NW	2
Forsum Rd & Menard Dr	SW	2
Forsum Rd & Prindiville Dr	NW	2
Forsum Rd & Prindiville Dr	SW	2
Forsum Rd & Yasui Ct	NW	2
Forsum Rd & Yasui Ct	SW	2
Foxwell Ct / Barnswell Wy & Sagewell Wy	NE	2
Foxwell Ct / Barnswell Wy & Sagewell Wy	NW	2
Foxwell Ct / Barnswell Wy & Sagewell Wy	SE	2
Foxwell Ct / Barnswell Wy & Sagewell Wy	SW	2

ATTACHMENT A – List of Locations
Report on Bids and Award of Contract for the 10594 – 2026 Local Streets ADA Curb Ramps #2
Project
Page 2 of 6

Intersection	Direction	CD
Grandwell Wy & Rosewell Ct & Rosewell Wy	NE	2
Grandwell Wy & Rosewell Ct & Rosewell Wy	NW	2
Grandwell Wy & Rosewell Ct & Rosewell Wy	SE	2
Grandwell Wy & Rosewell Ct & Rosewell Wy	SW	2
Grandwell Wy & Sagewell Wy	SE	2
Grandwell Wy & Sagewell Wy	SW	2
Knollwell Wy & Palmwell Wy	NE	2
Knollwell Wy & Palmwell Wy	NW	2
Limewell Ct & Sagewell Wy	NW	2
Limewell Ct & Sagewell Wy	SW	2
Marshwell Wy & Palmwell Wy	SE	2
Marshwell Wy & Palmwell Wy	SW	2
Marshwell Wy & Southmar Ct	NE	2
Marshwell Wy & Southmar Ct	SE	2
Marshwell Wy & Southview Dr	NW	2
Marshwell Wy & Southview Dr	SW	2
Menard Dr & Urshan Wy	SE	2
Menard Dr & Urshan Wy	SW	2
Oldwell Ct & Sagewell Wy	NW	2
Oldwell Ct & Sagewell Wy	SW	2
Palmwell Wy & Southpine Dr	SE	2
Palmwell Wy & Southpine Dr	SW	2
Prindiville Ct & Prindiville Dr	NE	2
Prindiville Ct & Prindiville Dr	SE	2
Prindiville Dr & Urshan Wy	SE	2
Prindiville Dr & Urshan Wy	SW	2
S South Breeze Ct & Tennant Av	SE	2
S South Breeze Ct & Tennant Av	SW	2
S South Garden Ct & Tennant Av	SE	2
S South Garden Ct & Tennant Av	SW	2
S South Terrace Ct & Southview Dr	NW	2
S South Terrace Ct & Southview Dr	SW	2
Southbrook Ct & Southbrook Dr	SE	2
Southbrook Ct & Southbrook Dr	SW	2
Southbrook Dr & Southview Dr	NE	2
Southbrook Dr & Southview Dr	SE	2

ATTACHMENT A – List of Locations
Report on Bids and Award of Contract for the 10594 – 2026 Local Streets ADA Curb Ramps #2
Project
Page 3 of 6

Intersection	Direction	CD
Southcreek Ct & Southview Dr	NW	2
Southcreek Ct & Southview Dr	SW	2
Southfield Ct & Southview Dr	NW	2
Southfield Ct & Southview Dr	SW	2
Southgate Ct & Southview Dr	NE	2
Southgate Ct & Southview Dr	SE	2
Southlake Ct & Southlake Dr & Southview Dr	NE	2
Southlake Ct & Southlake Dr & Southview Dr	NW	2
Southlake Ct & Southlake Dr & Southview Dr	SE	2
Southlake Ct & Southlake Dr & Southview Dr	SW	2
Southlake Dr & Southmont Ct	SE	2
Southlake Dr & Southmont Ct	SW	2
Southlake Dr & Southridge Ct	SE	2
Southlake Dr & Southridge Ct	SW	2
Southlite Ct & Tennant Av	SE	2
Southlite Ct & Tennant Av	SW	2
Southpine Ct & Southpine Dr	NW	2
Southpine Ct & Southpine Dr	SW	2
Southpine Dr & Southview Dr	NW	2
Southpine Dr & Southview Dr	SW	2
Southport Ct & Southview Dr	NE	2
Southport Ct & Southview Dr	SE	2
Southview Dr / S South Surf Ct & Tennant Av	NE	2
Southview Dr / S South Surf Ct & Tennant Av	NW	2
Southview Dr / S South Surf Ct & Tennant Av	SE	2
Southview Dr / S South Surf Ct & Tennant Av	SW	2
Southview Dr & Southwind Dr	NW	2
Southview Dr & Southwind Dr	SW	2
Southwind Dr & Tennant Av	NE	2
Southwind Dr & Tennant Av	NW	2
Urshan Ct & Urshan Wy	NW	2
Urshan Ct & Urshan Wy	SW	2
Fiji Dr & Mabury Rd	NE	5
Fiji Dr & Mabury Rd	NW	5
Franklin Ct & Mabury Rd	SE	5
Franklin Ct & Mabury Rd	SW	5

ATTACHMENT A – List of Locations
Report on Bids and Award of Contract for the 10594 – 2026 Local Streets ADA Curb Ramps #2
Project
Page 4 of 6

Intersection	Direction	CD
Gridley St & Mabury Rd / San Marino Av	NW	5
Gridley St & Mabury Rd / San Marino Av	SW	5
Kyle St & Mabury Rd	NE	5
Kyle St & Mabury Rd	NW	5
Mabury Rd & Orange St	SE	5
Mabury Rd & Orange St	SW	5
Mabury Rd & Pelleas Ln	SE	5
Mabury Rd & Pelleas Ln	SW	5
Mabury Rd & Pride St	SE	5
Mabury Rd & Pride St	SW	5
Mabury Rd & Timor Ct	SE	5
Mabury Rd & Timor Ct	SW	5
Aiello Dr & Lewis Rd	NW	7
Ascot Ln & Southside Dr	SW	7
Durant Av & Southside Dr	SE	7
Haga Dr & Southside Dr	SW	7
Lewis Rd & New Street St	SE	7
Livonia Pl & Wall St	SW	7
Southside Dr & Sunburst Dr	NE	7
Southside Dr & Sunburst Dr	NW	7
Sunburst Dr & Sunwood Dr	NE	7
Sunburst Dr & Sunwood Dr	SE	7
Wall St & Weber St	NW	7
Bluff Ct & Running Springs Rd	NW	8
Bluff Ct & Running Springs Rd	SE	8
Bluff Ct & Running Springs Rd	SW	8
Carmella Ct & Rachaela Ln	NW	8
Carmella Ct & Rachaela Ln	SW	8
Castle Canyon Wy & Heartland Wy	NW	8
Castle Canyon Wy & Heartland Wy	SW	8
Castle Canyon Wy & Livery Ln	NE	8
Castle Canyon Wy & Livery Ln	SE	8
Clover Meadow Ct & Scenic Meadow Ln	NE	8
Clover Meadow Ct & Scenic Meadow Ln	SE	8
Dovetail Ct & Placid Ct & Running Springs Rd	NE	8
Dovetail Ct & Placid Ct & Running Springs Rd	NW	8

ATTACHMENT A – List of Locations
Report on Bids and Award of Contract for the 10594 – 2026 Local Streets ADA Curb Ramps #2
Project
Page 5 of 6

Intersection	Direction	CD
Dovetail Ct & Placid Ct & Running Springs Rd	SE	8
Dovetail Ct & Placid Ct & Running Springs Rd	SW	8
Early Morning Ln & Running Springs Rd	NE	8
Early Morning Ln & Running Springs Rd	NW	8
Early Morning Ln & Running Springs Rd	SW	8
Gold Meadow Ct & Scenic Meadow Ln	NE	8
Gold Meadow Ct & Scenic Meadow Ln	SE	8
Grand Meadow Ln & Meadowlands Ln	NE	8
Grand Meadow Ln & Meadowlands Ln	NW	8
Grand Oak Wy & Hematite Ct	NE	8
Grand Oak Wy & Hematite Ct	SE	8
Grand Oak Wy & Robin Ridge Ct	SE	8
Grand Oak Wy & Robin Ridge Ct	SW	8
Grand Oak Wy & Running Springs Rd	NE	8
Grand Oak Wy & Running Springs Rd	NE	8
Grand Oak Wy & Running Springs Rd	NW	8
Grand Oak Wy & Running Springs Rd	SE	8
Grand Oak Wy & Running Springs Rd	SE	8
Grand Oak Wy & Running Springs Rd	SW	8
Hawkcrest Cl & Running Springs Rd	NE	8
Hawkcrest Cl & Running Springs Rd	NW	8
Hawkcrest Cl & Running Springs Rd	SE	8
Heartland Wy & Promontory Wy	NW	8
Heartland Wy & Promontory Wy	SW	8
Heartland Wy & Wilderness Cl	NE	8
Heartland Wy & Wilderness Cl	NW	8
Hidden Meadow Ct & Meadowlands Ln	NE	8
Hidden Meadow Ct & Meadowlands Ln	NW	8
High Meadow Ln & Meadowlands Ln	NE	8
High Meadow Ln & Meadowlands Ln	NW	8
High Meadow Ln & Meadowlands Ln	NW	8
High Meadow Ln & Meadowlands Ln	SW	8
Livery Ln & Promontory Wy	NE	8
Livery Ln & Promontory Wy	SE	8
Livery Ln & Running Springs Rd	SE	8
Livery Ln & Running Springs Rd	SW	8

ATTACHMENT A – List of Locations
Report on Bids and Award of Contract for the 10594 – 2026 Local Streets ADA Curb Ramps #2
Project
Page 6 of 6

Intersection	Direction	CD
Meadow Vista Ct & Meadowfield Ln	NE	8
Meadow Vista Ct & Meadowfield Ln	NW	8
Meadowlands Ln & Mountain Meadow Ct	NE	8
Meadowlands Ln & Mountain Meadow Ct	SE	8
Meadowlands Ln & Scenic Meadow Ln	NE	8
Meadowlands Ln & Scenic Meadow Ln	NW	8
Pine Meadow Ct & Scenic Meadow Ln	NE	8
Pine Meadow Ct & Scenic Meadow Ln	SE	8
Red Peak Ln & Running Springs Rd	NE	8
Red Peak Ln & Running Springs Rd	NW	8
Red Peak Ln & Running Springs Rd	SW	8
Red Peak Ln & Skywalker Dr	SE	8
Red Peak Ln & Skywalker Dr	SW	8
Running Springs Rd & Skywalker Dr	NE	8
Running Springs Rd & Skywalker Dr	NW	8
Running Springs Rd & Skywalker Dr	SE	8
Running Springs Rd & Skywalker Dr	SW	8
Running Springs Rd & Skywalker Dr	SW	8
Running Springs Rd & Windrow Ct	SE	8
Running Springs Rd & Windrow Ct	SW	8
Scenic Meadow Ct & Scenic Meadow Ln	NE	8
Scenic Meadow Ct & Scenic Meadow Ln	SE	8
Turturici Wy & Turturici Ct	SE	8
Turturici Wy & Turturici Ct	SW	8
Windward Ct / Apple Grove Ct & Castle Canyon Wy	NE	8
Windward Ct / Apple Grove Ct & Castle Canyon Wy	NW	8
Windward Ct / Apple Grove Ct & Castle Canyon Wy	SE	8
Windward Ct / Apple Grove Ct & Castle Canyon Wy	SW	8



Duran Construction Group

Union Contractor
Lic. 974298 A, C-8
DIR #1000026167

"Building business relationships on a concrete foundation"

10/27/2025

To:

City of San José – Public Works Department
Attn: Elizabeth Vargas
200 E. Santa Clara St
San José, CA 95113

Subject: Response to Notice of Intent to Award 10594 - 2026 Local Streets ADA Curb Ramps #2 ("Project")

Bidder: Duran Construction Group

Dear Ms. Vargas,

Thank you for the opportunity to bid on **10594 - 2026 Local Streets ADA Curb Ramps #2** and for your team's time in reviewing Duran Construction Group's submission. We value our more than 21-year partnership with the City of San José and remain committed to supporting the City's goals with safe, reliable, and cost-effective work.

We write to respectfully request a reconsideration of the preliminary non-responsiveness findings and the City's intent to award to another bidder. Our aim is to clarify two points in a constructive manner and provide the supporting materials the City may find helpful.

1) Statement of Bidder's Experience (70% Threshold)

We understand the City requires a minimum of three completed projects serving as references, each at least 70% of the engineer's estimate for this project. With our bid, Duran Construction Group submitted three completed projects; two clearly satisfy the 70% threshold. We recognize that the third listed project falls short of the 70% requirement.

To remove any doubt regarding our qualifications—and to align fully with the City's expectation—we are submitting a revised completed project that exceeds the 70% threshold.

P. O. Box 730845 San Jose, CA 95173

Tel: 408-254-4304 Fax: 408-254-4488

www.durancg.com

A.D.A. Improvements • Asphalt • Concrete • D.O.T. Repairs • Pavers • Public Works • Stamped Concrete

Duran Construction Group has completed many projects of similar or greater complexity and value, and we appreciate the City's patience as we ensure the experience matrix is crystal-clear.

2) CARB Certificate of Reported Compliance

We also understand the bid file was noted as missing the CARB Certificate for In-Use Off-Road Diesel-Fueled Fleets. Duran Construction Group has maintained this certificate in good standing; the omission was inadvertent in the assembly of the bid package. We are attaching the current certificate for the City's records. I want to point out other contractors provided bids that did not include CARB Certificate for concrete delivery suppliers and or subcontractors.

Our Approach and Track Record

Duran Construction Group has proudly delivered public works for San José for over two decades, consistently meeting schedule and budget expectations with a strong safety culture and collaborative communication. We greatly value the City's trust and the professional working relationships we've built with your staff and inspectors.

Request

In the spirit of cooperation and fairness to the competitive process, we respectfully request that the City:

- Accept the attached fourth qualifying project to confirm Duran Construction Group meets the three-project / 70% experience requirement; and
- Recognize the CARB certificate now provided as curing an inadvertent documentation gap.

If helpful, we would welcome a brief meeting or call to review our materials and answer any questions so the City can proceed with confidence. We appreciate your consideration and remain ready to assist in any way that supports a timely and compliant award.

Thank you again for your time and for your continued partnership with Duran Construction Group.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ray Duran', with a large loop at the end.

Ray Duran | President
Duran Construction Group
P.O. Box 730845
San Jose, CA 95173
ray.duran@durancg.com

Attachments:

1. Revised Statement of Bidder's Experience (see attached)
2. CARB Certificate of Reported Compliance (In-Use Off-Road Diesel-Fueled Fleets)

STATEMENT OF BIDDER'S EXPERIENCE

The bidder must provide a minimum of three (3) completed projects as references. The completed projects must demonstrate the bidder's experience and ability to complete the construction work as required under the terms of the Contract by meeting the following requirements:

Requirement No. 1: The projects must have involved construction substantially similar to the construction for this Project. "Substantially similar" means the following:

- a. The original contract amount was at least 70% of the engineer's estimate for this Project; and
- b. The projects must have involved the same elements of construction using similar construction trades as this Project.

Requirement No. 2: The substantial completion date for each reference project must have been after January 1, 2018.

Requirement No. 3: Each reference project must have been performed by the bidder or its predecessor in interest. Reference projects completed by a subcontractor or key personnel will not meet these requirements.

<u>Project Name / Location</u>	<u>Owner Name and Contact Information</u>	<u>Scope of Work</u>	<u>Initial Contract Amount</u>	<u>Substantial Completion Date</u>
2024 Reconstruction Project - Cupertino Various Locations Cupertino, CA	City of San Jose - Department of Transportation Aldo Corral Ph: 408-777-3353 E: aldoc@cupertino.gov	Remove and Replace City Sidewalk & Installation of PCC Wheelchair Ramps (R-10, R-11 & Modified)	1,586,000.00	7/18/2025
DOT - OP 67100 Various Locations San Jose, CA	City of San Jose - Department of Transportation Jeremiah Stagi Ph: 408-794-1911 E: jeremiah.stagi@sanjose.ca.gov	Remove and Replace City Sidewalk & Installation of PCC Wheelchair Ramps (R-10, R-11 & Modified)	1,250,000.00	8/31/2025
Concrete Roadway Restoration Various Locations - Santa Clara County California	San Jose Water Roger De Hoyos Jr. Ph: 408-918-8236 E: rogerdehoyosjr@sjwater.com	Remove and replace public right away ADA Ramp, sidewalk, driveway approach, park-strip & curb & gutter	\$850,000.00	7/02/2021

<u>Project Name / Location</u>	<u>Owner Name and Contact Information</u>	<u>Scope of Work</u>	<u>Initial Contract Amount</u>	<u>Substantial Completion Date</u>
DOT - OP 64072 Various Locations San Jose, CA	City of San Jose - Department of Transportation Jeremiah Stagi Ph: 408-794-1911 E: jeremiah.stagi@sanjose.ca.gov	Remove and Replace City Sidewalk & Installation of PCC Wheelchair Ramps (R-10, R-11 & Modified)	1,600,000.00	8/31/2024
DOT - OP 62623 Various Locations San Jose, CA	City of San Jose - Department of Transportation Jeremiah Stagi Ph: 408-794-1911 E: jeremiah.stagi@sanjose.ca.gov	Remove and Replace City Sidewalk & Installation of PCC Wheelchair Ramps (R-10, R-11 & Modified)	1,300,000.00	8/31/2023
DOT - OP 58451 Various Locations San Jose, CA	City of San Jose - Department of Transportation Eric Newton Ph: 408-794-1911 E: eric.newton@sanjose.ca.gov	Remove and Replace City Sidewalk & Installation of PCC Wheelchair Ramps (R-10, R-11 & Modified)	1,348,000.00	8/31/2021



California Environmental Protection Agency
Air Resources Board

January 1, 2025

**CERTIFICATE OF REPORTED COMPLIANCE
OFF-ROAD DIESEL VEHICLE REGULATION**

is issued to

MILPITAS MATERIALS COMPANY

This certificate indicates that the fleet listed above has reported off-road diesel vehicles to the California Air Resources Board and has certified they are in compliance with title 13 CCR, section 2449. All applicable vehicles owned by the individual, company, or agency must be reported and labeled, as specified in Section 2449, with all possible completeness, else this certificate is null and void. **Certificate expires 2/28/2026**



Jack Kitowski
Chief, Mobile Source Control Division
California Air Resources Board

Off-road Diesel Fleet Identification

166790

To verify the authenticity of this certificate, enter this number at
http://www.arb.ca.gov/doors/compliance_cert1.html



Department of Public Works

October 29, 2025

Ray Duran
Duran Construction Group
P.O. Box 730845
San Jose, CA 95173
Ray.duran@durancg.com

SUBJECT: PROTEST OF INTENT TO AWARD BID DOT 10594 – 2026 LOCAL STREETS
ADA CURB RAMPS #2 PROJECT

Dear Mr. Duran,

This letter is to inform you that City staff has evaluated your October 27, 2025, letter entitled “Response to Notice of Intent to Award 10594 – 2026 Local Streets ADA Curb Ramps #2,” and will be making the following recommendation to the City Council. Pursuant to the San Jose Municipal Code, the City Council has the authority to resolve bid protests made during this procurement.

RECOMMENDATION:

City staff will recommend upholding the intent to award the construction contract to Spenco Construction, Inc.

BACKGROUND:

On October 16, 2025, bids were opened for the DOT 10594: 2026 Local Streets ADA Curb Ramps #2 Project. Eight bids were submitted, with Duran Construction Group submitting the apparent lowest bid (\$1,219,770) and Spenco Construction, Inc. submitting the apparent second lowest bid (\$1,224,200).

After reviewing the bids for responsiveness, the City determined that the bid from Duran Construction Group was non-responsive for failing to meet the City's experience requirements and for failing to provide a California Air Resources Board (CARB) Off-Road Diesel Vehicle Certificate of Reported Compliance for one or more of its designated subcontractors' fleets. On October 22, 2025, the City issued a Notice of Intent to Award the contract to Spenco Construction, Inc., the bidder who submitted the lowest responsive and responsible bid.

SUBJECT: DOT 10594: 2026 Local Streets ADA Curb Ramps #2

PROTEST:

On October 27, 2025, the City received a timely written protest from Duran Construction Group. The protest asserted that the City should waive as a minor irregularity the deficiencies in Duran Construction Group's bid and award the contract to Duran Construction Group.

ANALYSIS: DURAN CONSTRUCTION GROUP'S PROTEST IS BASELESS

A. *Duran Construction Group was required to submit three reference projects that met the City's experience requirements and failed to do so*

During each public works procurement, bidders are required to complete a Statement of Bidder's Experience form providing information that demonstrates the bidder's experience and ability to complete the project in question. The Statement of Bidder's Experience form provides a list of experience requirements that each bidder must meet. For DOT 10594: 2026 Local Streets ADA Curb Ramps #2, bidders were required to submit three completed projects that met the following requirements:

1. The original contract amount was at least 70% of the engineer's estimate for this Project.
2. The projects must have involved the same elements of construction using similar construction trades as this Project.
3. The substantial completion date for each project must have been after January 1, 2018.

The Engineer's Estimate for DOT 10594: 2026 Local Streets ADA Curb Ramps #2, as provided in the Notice to Contractors, was \$1,545,000. As such, bidders were required to submit projects with a contract value of at least \$1,081,500 to meet the City's experience requirements.

Duran Construction Group provided three potential reference projects for consideration, of which only two met the \$1,081,500 contract value threshold. Of those two potential reference projects meeting the contract value threshold, only one can be considered as a completed project. As such, Duran Construction Group provided only one completed reference project that met the City's requirements:

1. 2024 Reconstruction (Cupertino): The 2024 Reconstruction Project, completed in July 2025, meets all of the City's experience requirements.
2. DOT – OP 67100 (San Jose): An open purchase order does not meet the City's requirement to submit completed projects as references. Open purchase orders are not projects in and of themselves; they are standing orders for ongoing, recurring work done over a specific time period. As projects arise, a contractor with an open purchase order is dispatched to the site to perform work. While the value of DOT

SUBJECT: DOT 10594: 2026 Local Streets ADA Curb Ramps #2

OP 67100 exceeded the \$1,081,500 contract value threshold, it is unlikely that any single project completed pursuant to DOT OP 67100 met that threshold.

3. Concrete Roadway Restoration (Santa Clara County): The Concrete Roadway Restoration Project, completed in July 2021, does not meet the \$1,081,500 contract value threshold.

In its protest letter, Duran Construction Group offers to provide additional park experience for the City's review. However, accepting substitute projects that were not submitted to us at the time of bid would be inconsistent with the City's practice and contrary to commitment to ensuring a fair, transparent and competitive procurement process.

- B. *Duran Construction Group was required to submit California Air Resources Board Certificate(s) of Reported Compliance for any designated subcontractor with fleets subject to the In-Use Off-Road Diesel-Fueled Regulations and failed to do so.*

The City consistently holds that failing to submit a properly completed bid package is grounds for being considered non-responsive, as permitted by Section 2-1.06 of the City's Standard Specifications.

Since 2008, CARB has regulated certain types of construction vehicles through the In-Use Off-Road Diesel-Fueled Fleets Regulation (Off-Road Regulation). The Off-Road Regulation requires contractors and other fleet owners to reduce their emissions by retiring older vehicles and replacing the retired vehicles with newer vehicles, repowering older engines, or installing verified diesel emission control strategies in older engines; and by restricting the addition of older vehicles to fleets.

In 2022, CARB approved amendments to the Off-Road Regulation aimed at "[establishing] a proactive check at the onset of a project or at contract renewal to encourage fleets to comply with the regulation...[and] also safeguard against the unfair monetary advantage of non-compliance and thus help level the playing field for all fleets.¹" The amendments, which went into effect January 1, 2024, require public agencies to obtain a valid Certificate of Reported Compliance for the fleets and subcontractors that are listed in the contract. The certificates must be obtained by the public agency prior to entering into a public works contract.

In accordance with the Off-Road Regulation, the City has, since January 2024, required that bidders provide CARB compliance documentation with each bid:

- The Notice to Contractors states that bidders must submit valid Off-Road Regulation Certificate(s) or Reported Compliance for their fleet and those of their designated subcontractors.
- A CARB Regulation Compliance form is included in the Request for Bids package. Bidders are required to mark two checkboxes: one to indicate whether the bidder's fleet is

SUBJECT: DOT 10594: 2026 Local Streets ADA Curb Ramps #2

subject to the Off-Road Regulation and a second to indicate whether any subcontractor fleets are subject to the Off-Road Regulation. For any fleet that is subject to the Off-Road Regulation, the bidder must submit a valid Off-Road Certificate of Reported Compliance.

In its bid, Duran Construction Group indicated that one or more of its designated subcontractor(s)' fleets are subject to the Off-Road Regulation. However, the company failed to submit an Off-Road Regulation Certificate of Reported Compliance for its only designated subcontractor, Milpitas Materials Co., and instead submitted a Truck and Bus Certificate of Reported Compliance for that company. Given that the City's procurement documents – including the CARB Certificates of Reported Compliance Reminder – clearly require Off-Road Certificates of Reported Compliance and not Truck and Bus Certificates of Reported Compliance, Environmental Systems, Inc.'s bid was deemed non-responsive on the basis that its "CARB Certificate of Reported Compliance is missing or invalid (subcontractor)." This irregularity was noted in the bid results which were posted with the Notice of Intent to Award on October 22, 2025.

Again, in its protest letter, Duran Construction Group offers to correct the deficiency after the fact by providing Milpitas Materials Co.'s Off-Road Regulation Certificate of Reported Compliance. However, accepting documents that were not submitted in a timely manner would be inconsistent with the City's practice and contrary to commitment to ensuring a fair, transparent and competitive procurement process.

As stated above, the City Council has the authority to resolve bid protests made during this procurement. Duran Construction Group will be afforded the opportunity to formally present its case to the City Council when this item is agendized for City Council action. Alternatively, Duran Construction Group may withdraw its protest.

Thank you,

Lauren Profeit

Lauren Profeit
CIP Procurement
San José City Hall, 5th Floor
200 E. Santa Clara Street
San José, CA 95112
lauren.profeit@sanjoseca.gov