

**THIS PRINT COVERS CALENDAR ITEM NO. : 10.**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Capital Programs & Construction

**BRIEF DESCRIPTION:**

Authorizing the Director of Transportation to execute Contract Modification No. 20 to San Francisco Municipal Transportation Agency (SFMTA) Contract No. 1250, Moscone Station and Portal Utilities Relocation, in the amount of \$450,867 and an extension of 47 calendar days to the Contract term.

**SUMMARY:**

- On November 17, 2009, the SFMTA Board of Directors awarded Contract No. 1250, Third Street Light Rail Program, Phase 2 Central Subway – Moscone Station and Portal Utilities Relocation, to Synergy Project Management Inc., in the amount of \$9,273,939. The Contract work included relocation of utilities to accommodate the future construction for the Central Subway Yerba Buena/Moscone Station and the tunnel portal structure.
- During execution of Contract work, the Contractor encountered midden deposits, a historic Native American refuse collection containing various artifacts of archeological and ecological significance, at multiple locations.
- Contract Modification No. 20, which addresses the archeological and ecological mitigation efforts due to the midden findings and adjusts final bid item quantities to allow for Contract close out, will increase the Contract amount by \$450,867 and will increase the Contract term by 47 calendar days.
- Contract Modification No. 20 is being issued unilaterally by the SFMTA. It represents the SFMTA's estimate of a fair and reasonable final compensation amount for the additional work.
- In addition to these estimated costs, the Contractor has indicated that it is entitled to additional compensation of approximately \$3,000,000 for further delays and inefficiencies. SFMTA staff has reviewed these additional compensation requests and has determined them to be without merit.
- There is a possibility that the Contractor may pursue additional compensation.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Project Budget & Financial Plan
3. Contract Modification No. 20
4. List of previous contract modifications

**APPROVALS:**

**DATE**

DIRECTOR

\_\_\_\_\_

10/29/12

SECRETARY

\_\_\_\_\_

10/29/12

**ASSIGNED SFMTAB CALENDAR DATE:** November 6, 2012

## **PURPOSE**

Requesting authorization to execute Contract Modification No. 20 to San Francisco Municipal Transportation Agency (SFMTA) Contract No. 1250, Third Street Light Rail Program, Phase 2 Central Subway – Moscone Station and Portal Utilities Relocation, with Synergy Project Management Inc. (Contractor) for an amount of \$450,867 and Contract extension of 47 calendar days.

## **GOAL**

Contract Modification No. 20 to SFMTA Contract No. 1250, is consistent with the SFMTA Strategic Plan in the following goal and objective:

Goal 3 - Improve the environment and quality of life in San Francisco.

Objective 3.3: Allocate capital resources effectively.

## **DESCRIPTION**

### Project Background:

The Central Subway Project (Project) is the second phase of the SFMTA's Third Street Light Rail Project, and will add 1.67 miles of light rail track north from the northern end of the new Third Street Light Rail at Fourth and King Streets to a terminal in Chinatown. The Project will serve regional destinations, including Chinatown (the most densely populated area of the country that is not currently served by modern rail transportation), Union Square, Moscone Convention Center, Yerba Buena, SoMa and AT&T Park. The Project will also connect BART and Caltrain (the Bay Area's two largest regional commuter rail services), serve a low auto ownership population of transit customers, increase transit use and reduce travel time, reduce air and noise pollution, and provide congestion relief. The public interest and necessity require the construction and operation of the Project to achieve such benefits.

The Project will have four stations and connecting subsurface tunnels to provide direct rail service to the South of Market and Chinatown neighborhoods. The Project has been planned and located in a manner that will be most compatible with the greatest public good and the least private injury.

### Current Status:

Currently, the construction contract for relocating utilities for the Yerba Buena/Moscone Station and the tunnel portal areas (Contract No. 1250) is completed. The construction contract to relocate utilities in the Union Square/Market Street Station location (Contract No. 1251) is substantially complete. The largest contract for the Project, the tunneling contract (Contract No. 1252), is progressing with construction activities approximately 18 percent complete. The final designs of the remaining stations and systems contracts are completed or will be completed shortly. They are in or will soon be in the bid procurement process.

On November 17, 2009, the SFMTA Board of Directors adopted Resolution No. 09-194, which awarded Contract No. 1250, Third Street Light Rail Program, Phase 2 Central Subway – Moscone Station and Portal Utilities Relocation, to Synergy Project Management Inc., in the amount of \$9,273,939 and Contract duration of 458 calendar days.

SFMTA issued the Notice to Proceed to the Contractor on January 4, 2010. In the course of performing Contract work, unforeseen site conditions, design changes to meet field conditions and additional quantities of work caused changes to the Contract amount. To address these changes, the Executive Director/CEO and Director of Transportation approved Contract Modification Nos. 1 through 19 totaling \$2,243,344 for a Contract value of \$11,517,283.

An additional unforeseen site condition encountered while performing Contract work was the discovery of historic Native American midden located under Fourth Street between Howard and Folsom Streets. The midden contained various artifacts of archeological and ecological significance. Each utility trench and service vault relocation within the limits of the midden was delayed to allow archeological and ecological mitigation measures be performed.

Scope of Work and Contract Changes Contained in Unilateral Contract Modification No. 20:

1. Additional work by Contractor related to archeological discoveries includes equipment standby costs resulting from partial jobsite shutdowns during mitigation efforts. Work includes protection of trenches containing archeological findings during investigation and mitigation periods. Additional work was also required to support the archeologists' mitigation efforts. Examples of such direct support work include hand removal of excavated soils and transportation of soils to Sonoma State University for final processing.

Additionally, this Contract Modification extends the Contract term by 47 calendar days for all delays related to the archeological encounters and mitigation measures performed.

2. Additional work due to differing site conditions encountered during the installation of Contract infrastructure.
3. Additional SFPD services as required to provide traffic control.
4. Adjustment of final Contract bid item quantities to allow for final Contract closeout.

Contract Modification No. 20 increases the Contract amount by \$450,867 and extends the term by 47 calendar days, to a final Contract amount and term of \$11,968,150 and 505 calendar days, respectively.

While Contract Modification No. 20 is being issued unilaterally by the SFMTA, it should be noted that amounts contained in all previous Contract Modifications were negotiated and mutually agreed upon by both the Contractor and the SFMTA.

With regards to Contract Modification No. 20, the SFMTA and the Contractor were unable to come to a bilateral agreement. This was due to the Contractor's request for additional compensation totaling approximately \$3,000,000 for further delays and inefficiencies above and beyond those included in Contract Modification No. 20. These additional compensation requests were reviewed by SFMTA staff and determined to be without merit. Contract Modification No. 20 contains a final compensation which has been deemed fair and reasonable by the SFMTA for the additional work discussed above.

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Consequently, Contract Modification No. 20 is being issued unilaterally by the SFMTA thus there remains a possibility that the Contractor may pursue additional compensation.

**ALTERNATIVES CONSIDERED**

Due to the unforeseen and sensitive nature of these archeological findings, no alternatives were deemed viable by project staff.

**FUNDING IMPACT**

Funding for the entire project comes from a combination of federal, state and local funds. All funding for this project has been secured.

The budget and financial plan for this project is presented in Enclosure 2.

**OTHER APPROVALS RECEIVED OR STILL REQUIRED**

No further approvals are required. The City Attorney has reviewed this calendar item.

**RECOMMENDATION**

Staff recommends that the SFMTA Board of Directors approve Unilateral Contract Modification No. 20 and authorize the Director of Transportation to execute Unilateral Contract Modification No. 20 for SFMTA Contract No. 1250, Third Street Light Rail Program, Phase 2 Central Subway – Moscone Station and Portal Utilities Relocation Contract in the amount of \$450,867 with a 47 calendar day extension.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. \_\_\_\_\_

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) intends to construct the Central Subway Project (Project) to provide rail service to the South of Market and Chinatown neighborhoods; and,

WHEREAS, The Project is the second phase of the SFMTA's Third Street Light Rail Project and the Project will add 1.67 miles of light rail track north from the northern end of the new Third Street Light Rail at Fourth and King Streets to a terminal in Chinatown, serve regional destinations, including Chinatown (the most densely populated area of the country that is not currently served by modern rail transportation), Union Square, Moscone Convention Center, Yerba Buena, SoMa and AT&T Park, connect BART and Caltrain (the Bay Area's two largest regional commuter rail services), serve a low auto ownership population of transit customers, increase transit use and reduce travel time, reduce air and noise pollution, and provide congestion relief; and,

WHEREAS, The Project will assist the SFMTA in meeting the objectives of Goal No. 3 (improve the environment and quality of life in San Francisco); and,

WHEREAS, On November 17, 2009, the SFMTA Board of Directors adopted Resolution No. 09-194, which awarded Contract No. 1250, Third Street Light Rail Program, Phase 2 Central Subway – Moscone Station and Portal Utilities Relocation Contract to Synergy Project Management Co., Inc. in the amount of \$9,273,939 and Contract duration of 458 calendar days; and,

WHEREAS, The Executive Director/CEO and the Director of Transportation approved Contract Modification Nos. 1 through 19, which increase the amount by \$2,243,344, with no extension to the Contract term; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to execute Contract Modification No. 20 to the San Francisco Municipal Transportation Agency Contract No. 1250, Third Street Light Rail Program, Phase 2 Central Subway – Moscone Station and Portal Utilities Relocation Contract in the amount of \$450,867 and extend Contract duration of 47 calendar days for a final Contract amount of \$11,968,150 and final Contract duration of 505 calendar days.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of November 6, 2012.

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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

ENCLOSURE 2

THIRD STREET LIGHT RAIL PROJECT  
CENTRAL SUBWAY

Project Budget & Financial Plan

<b>Cost</b>	<b>(\$Million)</b>
Conceptual and Preliminary Engineering	46.32
Program Management & Construction Management	206.52
Final Design	86.05
Construction Contracts (Tunnel, Stations and Systems is \$1.034B)	1,089.61
Vehicles	26.38
Contingency	63.34
Right-of-Way	37.40
Other Professional Services	22.68
<b>Total Central Subway Cost</b>	<b>\$1,578.30</b>

<b>Funding</b>	<b>(\$Millions)</b>
Federal 5309 New Starts	942.20
Federal CMAQ	41.03
State RTIP Grant	88.00
State TCRP Grant	14.00
State Proposition 1A - High Speed Rail	61.31
State Proposition 1B - PTMISEA	307.78
Proposition K Sales Tax Funds	123.98
<b>Total Central Subway Funding</b>	<b>\$1,578.30</b>

ENCLOSURE 3

**UNILATERAL CONTRACT MODIFICATION NO. 20**

**SFMTA Contract No. 1250**

THIRD STREET LIGHT RAIL PROGRAM, PHASE 2 CENTRAL SUBWAY –  
MOSCONE STATION AND PORTAL UTILITIES RELOCATION

**Contractor:** Synergy Project Management Inc.  
150 Executive Park Blvd., Suite 4750  
San Francisco, CA 94134

You are hereby directed to proceed with the following work under the provision 75.2 of the General Provisions of the Contract. The Contract is modified as described below:

*1. ADDITIONAL COSTS DUE TO ARCHEOLOGICAL DISCOVERIES*

Due to archeological discoveries encountered during the execution of Contract work the Contractor incurred additional costs. This Contract Modification compensates the Contractor for the following archeological related additional costs:

- a. Direct work activities: Direct work involving the Contractor's crews, equipment and materials was required respond to archeological findings promptly, ensure that any findings were properly protected during mitigation efforts and to assist with archeologists' mitigation efforts when requested. (\$405,582)
- b. Contract Time Extension and Resulting Additional Indirect Costs: This Contract Modification unilaterally extends the Contract substantial completion date from April 6, 2011 to May 23, 2011. This extended duration, as determined by the SFMTA Resident Engineer, encompasses all archeological related delays. In addition to extending the Contract duration, this Contract Modification also compensates the Contractor for additional indirect/overhead costs resulting from the 47EA calendar day extension contained herein. (\$124,187)
- c. Equipment Standby Costs: As a result of the aforementioned archeological findings the Contractor was required to place pieces of equipment on standby during remediation efforts. Additionally, the Contractor incurred costs due to additional demobilization/remobilization operations required to place his equipment on standby. (\$67,728)

New Bid Item CM 20-16 is established for this work.

*2. EXTRA WORK DUE TO DIFFERING SITE CONDITIONS*

Compensate the Contractor for additional work due to differing conditions encountered during the installation of Contract infrastructure (including, but not limited to PG&E, AT&T, sewer, water, Muni, and joint trench facilities).

New Bid Item CM 20-17 is established for this work.

*3. ADDITIONAL TRAFFIC CONTROL COSTS*

Compensate the Contractor for payments made to San Francisco Police Department to provide traffic control as needed for execution of Contract work. This Modification covers traffic control work during below grade street work in the intersections of 4<sup>th</sup>/Folsom, 4<sup>th</sup>/Bryant, and 4<sup>th</sup>/Harrison.

New Bid Item CM 20-18 is established for this work.

**4. FINAL BID ITEM RECONCILIATION AND UNIT PRICE ADJUSTMENT**

Adjust the estimated Contract Bid Item quantities to match the actual quantities and amounts of work provided and installed by the Contractor, as listed on the attached Contract Bid Item Reconciliation. New Bid Item CM 20-01 is established for this work.

Pursuant to General Provisions Paragraph 11 “Estimate of the Amount of Work to be Done”, adjust Unit Prices for 13 Contract Bid Items whose final usages exceed the thresholds listed below:

For Bid Items whose final usage fell below 75 percent of the quantity shown in the Schedule of Bid Prices, the Unit Prices were adjusted to allow the Contractor to recoup lost general condition costs included in the unused Bid Item Contract Amount.

For Bid Items whose final usage was greater than 125 percent of the quantity shown in the Schedule of Bid Prices, the Unit Prices were adjusted to allow the SFMTA to realize cost savings. These cost savings were due to increased efficiency/experience resulting from higher actual final quantity as compared to the anticipated quantity used to create a Unit Price during the bidding process.

The unit price adjustments contained herein were negotiated and agreed to by the Contractor and the SFMTA. 13 new Bid Items, CM 20-02 through CM 20-14, are established with new negotiated unit prices to replace the original Bid Items.

**5. GENERAL CONIDITIONS FOR UNUSED BID ITEMS**

Pursuant to the aforementioned General Provision section, compensate the Contractor for general conditions costs included in 7EA unused Contract Bid Items. The mechanism for this compensation is differentiated from Item 4 in that this compensation is required to be lump sum due to the zero final quantity usage.

The compensation amounts contained herein were negotiated and agreed to by the Contractor and the SFMTA. New Bid Item CM 20-15 is established for this work.

**6. Add the following new Contract Pay Items:**

<b>Contract Pay Item</b>	<b>Description</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Quantity</b>	<b>Total Amount</b>
CMOD 20-01	Bid Item Reconciliation	LS	----	---	\$(683,918.04)
CMOD 20-02	CONSTRUCTION AREA AND SPECIAL TRAFFIC SIGNS (TR-4) Unit Cost Adjustment	EA	\$549.23	10.00	\$5,492.25
CMOD 20-03	UTILITY VAULT TYPE 7 (JT-17) Unit Cost Adjustment	EA	\$21,969.00	4.00	\$87,876.00
CMOD 20-04	UTILITY VAULT TYPE I (JT-19) Unit Cost Adjustment	EA	\$1,318.14	2.00	\$2,636.28
CMOD 20-05	Concrete Manhole For Pipe Size 27" to 48" In Diameter With New Frame And Cover (Per Std. Plan 87,182) (SW-12) Unit Cost Adjustment	EA	\$15,369.19	2.00	\$30,738.37

<b>Contract Pay Item</b>	<b>Description</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Quantity</b>	<b>Total Amount</b>
CMOD 20-06	Cast Iron Water Trap For Catchbasin Including Cleanout Cap (SW-17) Unit Cost Adjustment	EA	\$898.55	2.00	\$1,797.10
CMOD 20-07	6, 8, 10, or 12-Inch Diameter Side Sewer Replacement (SW-22) Unit Cost Adjustment	LF	\$165.82	210.00	\$34,822.69
CMOD 20-08	METER BOX REMOVAL/INSTALLATION (WD-1) Unit Cost Adjustment	EA	\$975.39	10.00	\$9,753.90
CMOD 20-09	INSTALLATION 8" DIP WITH POLYETHYLENE ENCASEMENT (WD-2B) Unit Cost Adjustment	LF	\$23.58	359.00	\$8,465.32
CMOD 20-10	TRENCH EXCAVATION & BACKFILL FOR PIPE INSTALLED BY SFWD AND FH LATERALS (WD-5) Unit Cost Adjustment	LF	\$165.74	547.00	\$90,659.78
CMOD 20-11	CORE DRILL CONCRETE WALL FOR LARGE SERVICES (WD-6) Unit Cost Adjustment	EA	\$967.18	3.00	\$2,901.54
CMOD 20-12	8-Inch Thick Concrete Pavement (RP-3) Unit Cost Adjustment	SF	\$9.74	1260.00	\$12,278.64
CMOD 20-13	2-Foot Wide Concrete Gutter (RP-6) Unit Cost Adjustment	LF	\$38.94	200.00	\$7,787.05
CMOD 20-14	RESTORATION OF BUILDING WATERPROOFING (BP-4) Unit Cost Adjustment	SF	\$12.18	1423.31	\$17,337.58
CMOD 20-15	Reimburse General Conditions Related to Unused Bid Items	LS	----	---	\$37,467.66
CMOD 20-16	Additional Costs Related to Archeological Discoveries	LS	----	---	\$597,497.00
CMOD 20-17	Additional Costs Due to Differing Site Conditions	LS	----	---	\$178,805.00
CMOD 20-18	Additional SFPD Traffic Control Costs	LS	----	---	\$8,469.00

Total Amount of this Contract Modification

Unilaterally Determined Increase:	\$450,867
Previous Total of Contract	\$11,517,283
New Revised Total of Contract:	\$11,968,150

Total Contract Time by this Contract Modification:	47 days
Previous Contract Completion Date:	04/06/2011
New Revised Contract Completion Date:	05/23/2011

7. This Modification is made in accordance with Article 75 of the Contract General Provisions. Contractor acknowledges and agrees that the amounts agreed for the work described above shall be in full accord and satisfaction of all costs incurred both as of the date of this Contract Modification and any costs that Contractor may in the future incur arising from or otherwise related to Contractor's performance of the work under this modification, without limitation. Contractor releases SFMTA from all claims, for which full accord and satisfaction is hereby made, as set forth above.

If this modification involves the granting of an extension of time, with or without cost, Contractor releases SFMTA from all claims and costs associated with such extension of time. Such costs may include, but are not limited to, costs for labor, materials, equipment, disruption, lost productivity, escalation, delay, extended overhead, administration and extended performance time.

8. Except as provided herein all previous terms and conditions of the Contract remain unchanged.

This unilateral Contract Modification has been executed in quadruplicate in San Francisco, California as of this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY AND COUNTY OF SAN FRANCISCO**

By: \_\_\_\_\_  
Edward D. Reiskin  
Director of Transportation  
San Francisco Municipal Transportation Agency

**AUTHORIZED BY:**  
San Francisco Municipal Transportation Agency

Resolution No. \_\_\_\_\_

Adopted: \_\_\_\_\_

Attest:

By: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Robert K. Stone  
Deputy City Attorney

Enclosure 4

Contract No. 1250  
Moscone Station and Portal Utilities Relocation

**PREVIOUS APPROVED CONTRACT MODIFICATIONS – SUMMARY**

Item	Description	Change	Sum	Change	Sum
Contract Modifications		Amount		Duration (Calendar Days)	
01	Delete Optional Bid Item MF-OP1	(\$50,000.00)	(\$50,000.00)	0 days	0 days
02	Changes to Sewer on 4 <sup>th</sup> Street Between Howard and Folsom	\$107,174.00	\$57,174.00	0 days	0 days
03	Increase Quantity of JT-6 and JT-7 Bid Items	\$192,420.00	\$249,594.00	0 days	0 days
04	Demolish existing brick wall and concrete footing on 4 <sup>th</sup> St. bet. Howard and Folsom	\$170,000.00	\$419,594.00	0 days	0 days
05	Modify AWSS at 4 <sup>th</sup> /Bryant and 4 <sup>th</sup> /Harrison	\$586,000.00	\$1,005,594.00	0 days	0 days
06	Install four additional piles and reinforce existing foundation at 401 4 <sup>th</sup> Street	\$130,000.00	\$1,135,594.00	0 days	0 days
07	Sewer modifications at 4 <sup>th</sup> /Stillman	\$47,000.00	\$1,182,594.00	0 days	0 days
08	Relocate TPC Vault	\$19,500.00	\$1,202,094.00	0 days	0 days
09	Demolish Unforeseen Utility Conflicts for new 21” and 48” Sewer	\$32,964.00	\$1,235,058.00	0 days	0 days
10	AT&T Wye Cast Excavation and Chipping	\$48,181.00	\$1,283,239.00	0 days	0 days
11	Additional Sewer Work at Caltrans Yard	\$39,062.00	\$1,322,301.00	0 days	0 days
12	Additional AWSS Modifications at 4 <sup>th</sup> /Harrison	\$156,418.00	\$1,478,719.00	0 days	0 days
13	Steel Plates and Shoring Rentals at Clementina due to PG&E Conflict	\$24,981.00	\$1,503,700.00	0 days	0 days
14	SFWD Support and Work Around	\$66,510.00	\$1,570,210.00	0 days	0 days
15	Additional AWSS Modifications at 4 <sup>th</sup> /Harrison	\$160,908.00	\$1,731,118.00	0 days	0 days
16	Differing Conditions During Installation of Publicly Owned Infrastructure	\$235,595.00	\$1,966,713.00	0 days	0 days
17	Adjust UD-10 Bid Item Quantity	\$112,500.00	\$2,079,213.00	0 days	0 days

<b>Item</b>	<b>Description</b>	<b>Change</b>	<b>Sum</b>	<b>Change</b>	<b>Sum</b>
<b>Contract Modifications</b>		<b>Amount</b>		<b>Duration (Calendar Days)</b>	
18	SFPD Traffic Control on 4 <sup>th</sup> Street	\$68,820.00	\$2,148,033.00	0 days	0 days
19	AT&T Support and Workaround	\$95,311.00	\$2,243,344.00	0 days	0 days
<b>Total:</b>		\$2,243,344.00	\$2,243,344.00	0 days	0 days