

**THIS PRINT COVERS CALENDAR ITEM NO.:** 10.4

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Capital Programs and Construction

**BRIEF DESCRIPTION:**

Approving Modification No. 4 to SFMTA Contract No. 1291, Kirkland, Scott and Flynn Facilities Tank Upgrade Project with Pilot Construction Management, Inc. for the replacement of underground storage tanks and related systems and infrastructure at four SFMTA transit facilities to comply with State Water Control Board requirements, and retroactively approving the substitution of four subcontractors listed in the Contractor's bid, and amending final work scope and adjusting bid quantities, resulting in a net increase of \$47,585.82 of the contract amount, for a final contract amount of \$6,711,925.36 to close out the contract.


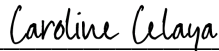
**SUMMARY:**

- On December 6, 2016, the SFMTA Board of Directors awarded Contract No. 1291, Kirkland, Scott and Flynn Facilities Tank Upgrade Project (Contract) to Pilot Construction Management, Inc. (Pilot) to replace underground storage tanks at the three named SFMTA transit facilities, at a cost not to exceed \$5,362,995.90 and for a term of 810 calendar days. The work was required under a Final Consent Judgement and Permanent Injunction between the SFMTA and the State Water Resource Control Board (SWRCB) to correct underground storage tank conditions that violated State regulations.
- The Contract was previously amended four times due to amendments to the scope of work to address unexpected site conditions, adjust materials quantities, correct defective designs, increasing the contract amount a net total of \$1,301,343.64 and extending contract time 19 days.
- During construction, Pilot requested that the SFMTA approve the substitution of four subcontractors. This contract modification retroactively approves those subcontractor substitutions, on the grounds that the listed subcontractors were unable to perform the work assigned to them.

**ENCLOSURES:**

1. SFMTAB Resolution
2. Project Budget and Financial Plan
3. Contract Modification No. 4

**APPROVALS:**

	<b>DATE</b>
DIRECTOR 	January 12, 2021
SECRETARY 	January 12, 2021

**ASSIGNED SFMTAB CALENDAR DATE:** January 5, 2021

## **PURPOSE**

Approving Modification No. 4 to SFMTA Contract No. 1291, Kirkland, Scott and Flynn Facilities Tank Upgrade Project with Pilot Construction Management, Inc. for the replacement of underground storage tanks and related systems and infrastructure at four SFMTA transit facilities, and retroactively approving the substitution of four subcontractors listed in the Contractor's bid, and amending the final scope of work and adjusting bid quantities, resulting in a net increase of \$47,585.82 of the contract amount, for a final contract amount of \$6,711,925.36 to close out the contract.

## **STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES**

This action supports the following goals and objectives in the SFMTA Strategic Plan and Transit First Policy Principles:

Strategic Plan Goals/Objectives:

Goal 1: Create a safer transportation experience for everyone.

Objective 1.3: Improve security for transportation system users.

Goal 2: Make transit and other sustainable modes of transportation the most attractive and preferred means of travel.

Objective 2.2: Enhance and expand use of the city's sustainable modes of transportation.

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

Objective 3.2: Advance policies and decisions in support of sustainable transportation and land use principles.

Objective 3.3: Guide emerging mobility services so that they are consistent with sustainable transportation principles.

Objective 3.4: Provide environmental stewardship to improve air quality, enhance resource efficiency, and address climate change.

Transit First Policy Principles:

1. To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.
2. Public transit, including taxis and vanpools, is an economically and environmentally sound alternative to transportation by individual automobiles. Within San Francisco, travel by public transit, by bicycle and on foot must be an attractive alternative to travel by private automobile.

## **DESCRIPTION**

In 2014, the State Water Resource Control Board (SWRCB) alleged that the SFMTA was not complying with California Health and Safety Code regulations regarding the maintenance and

operation of underground storage tanks at the Kirkland, Scott and Flynn Facilities. State regulators identified issues with the management and maintenance of underground tank systems, including record keeping and regular testing and inspection of tanks and their leak monitoring systems. As part of a consent judgment with SWRCB, the SFMTA agreed to voluntary upgrades to the existing tanks and issued the Contract to upgrade fuel storage tanks at those facilities.

**A. Scope of the Original Contract**

The Contractor performed the following base contract work:

1. At the Kirkland Facility, two diesel underground storage tanks were replaced with two underground biodiesel tanks.
2. At the Flynn Facility, two waste tanks in an underground tank vault were replaced with two above ground waste tanks.
3. At the Scott Facility, two waste storage tanks in an underground concrete vault and two maintenance fluid above ground tanks were replaced with five above ground tanks.
4. The work also included upgrading or replacing existing tank monitoring systems at each facility; piping work and excavation; replacing three dispensers at Kirkland Facility; and other work incidental to tank replacement.

The contract required the Contractor to complete the work within 810 calendar days from Notice to Proceed. The Contractor was required to remove the Kirkland underground tanks within 120 calendar days from the Notice to Proceed to meet deadlines required by the State Water Resource Control Board.

**B. Previous Contract Modifications**

Contract Modification No. 1. On June 6, 2018, the Director of Transportation, under his approval authority, approved Contract Modification No. 1 for \$976,929.90 to redesign the shoring system related to the re-orientation of the new tanks to avoid interference with a public sidewalk adjacent to the site. The revised design increased the estimated quantities for soil transportation and soil disposal to reflect the enlarged tank excavation and shoring area.

Contract Modification No. 2. On June 20, 2018, the Director of Transportation approved Contract Modification No. 2 for \$179,999.74 to furnish and install a redundant fuel supply tank system at Kirkland Facility as additional work. This modification also deleted bid items related to the transportation, handling, and disposal of both hazardous and non-hazardous soils which were not encountered in the facilities.

Contract Modification No. 3. On May 7, 2020, the Director of Transportation approved Contract Modification No. 3 to increase the contract amount by \$144,414 and Contract Time by 19 calendar days. Contract Modification No. 3 increased the quantities of bid items to match actual paving quantities, compensated contractor for additional permit fees and additional work required to address

unforeseen site conditions, and additional costs related to installation of a dual pipe fuel system at Kirkland Facility. This modification also reduced scope for the installation of five new tanks and piping at Scott Facility.

**C. Contract Modification No. 4**

**1. Subcontractor Substitutions**

This contract modification retroactively approves the Contractor's request to substitute of four subcontractors listed in the Contractor's bid who are subject to the protections of the State Subletting and Subcontracting Fair Practices Act, Public Contract Code section 4100 et seq.:

1. Barri Electric Substitution with McKee Electric: On February 10, 2017, Pilot's Subcontractor Barri Electric, the sole electrical contractor, requested replacement when the electrical work at Kirkland Facility became delayed by re-design of the piping for the fueling system to ensure redundancy. As a result of this re-design, Barri Electric requested to be relieved of the responsibility of fulfilling their subcontract as they were over-committed on numerous other projects for San Francisco International Airport and would not have the resources to support the project. Pilot identified Local Business Enterprise (LBE) subcontractor McKee Electric to replace Barri Electric. The SFMTA Board may approve the substitution under Public Contract section 4107(a) [subcontractor's inability to perform the work] and 4107(b) [subcontractor's voluntary transfer of the work to another subcontractor].

2. Paradiso Substitution with CIW & Sons: On March 13, 2017, Paradiso Mechanical, the sole contractor to perform tank and pipe installation work, informed Pilot that they were experiencing economic hardships resulting in them becoming insolvent. Pilot informed SFMTA that for the tank installation work, in lieu of substituting another subcontractor, Pilot would self-perform this work and for the plumbing work Pilot proposed to substitute CIW & Sons for Paradiso Mechanical. Pilot indicated that Paradiso Mechanical was the only available LBE qualified environmental service and petroleum mechanical contractor, and that there were no other LBE certified contractors qualified for this type of work. The SFMTA Board may approve the substitution and Contractor's self-performance of subcontracted work under Public Contract section 4107(a) [subcontractor's inability to perform the work] and 4107(b) [subcontractor's voluntary transfer of the work to another subcontractor].

3. Dirt Shop Substitution with Waste Solutions Group: On May 3, 2017, Dirt Shop, the sole contractor to off haul soil, informed the Contractor who informed SFMTA that it had qualified itself and bid the Work incorrectly assuming that the off-haul was primarily for Class 2/3 hazardous soil. The Dirt Shop was not able to provide LBE certified trucks and could not handle the volume of hazardous material encountered at the Kirkland Yard Facility. Pilot requested to substitute Waste Solutions Group to handle and haul the contaminated soil portion of the work that was coming out of Kirkland Yard Facility. The SFMTA Board may approve the substitution under Public Contract section 4107(a) [subcontractor's inability to perform the work] and 4107(b) [subcontractor's voluntary transfer of the work to another subcontractor].

4. JDB & Sons Substitution with Mission Constructors: During the project, JDB & Sons, the sole contractor to perform paving, failed to perform with respect to quality and schedule. Pilot proposed the substitution of Mission Constructors to replace JDB & Sons. On September 10, 2018, SFMTA provided notice to JDB & Sons that Pilot had requested to replace the subcontractor. SFMTA did not receive a response within the time required by PCC §4104. On October 10, 2018, JDB & Sons wrote a response to SFMTA challenging some of the facts but did not object to the subcontractor substitution. The SFMTA Board may approve the substitution under Public Contract section 4107(a) [subcontractor's inability to perform the work].

## **2. Additional Work and Quantity Adjustments.**

Contract Modification No. 4 includes final scope and bid quantity adjustments necessary to close out the Contract.

Item 4B: Mechanical and Plumbing Additional Work: An existing 1-1/2" natural gas line was an unknown site condition that the Contractor had to reroute around the new underground storage tanks at the Kirkland Yard at a cost of \$23,421.00. The Contract Documents did not identify or locate the gas line. The gas line was at least 40 years old and deteriorating. Due to the safety concerns of the poor condition of the gas line, the project team determined it necessary to replace the gas line prior to installing the fuel lines.

Item 4C: Additional Unforeseen Sewer Work: Additional unforeseen sewer work at the Kirkland Yard required replacing an existing Vitrified Clay Pipe (VCP) water trap at an existing catch basin with a new cast iron water trap with cleanout port. The Contract Documents required the Contractor clean the sewer line from the Facility to the sewer main running along Beach St but the existing VCP trap did not have a cleanout. The Contract Documents did not require the replacement of the existing trap and did not specify the material for a replacement trap. A cast iron trap with a cleanout was required in order to meet current city standards and was an upgrade to the existing trap. Cost impact of the new sewer work was \$6,215.76.

Item 4D: Quantity Adjustment to Finalize Contract Pay Items: Lastly, as part the Contract Closeout process, the estimated Contract bid item quantities are adjusted to reflect actual quantities and amounts of work provided and installed by the Contractor, as listed on the Engineer's Final Quantity Summary. For this modification, the final adjustment increased the contract by \$17,949.06.

The total cost impact to the Contract for all scope and bid adjustments for this modification is \$47,585.82, resulting in final contract amount of \$6,711,925.36 with no change to contract duration.

## **STAKEHOLDER ENGAGEMENT**

The SFMTA's Outreach team communicated with members of the Board of Supervisors for the districts in which the work was done, residents and businesses regarding temporary impacts caused by construction activities at the three facilities.

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During construction, the SFMTA's construction management team communicated with yard maintenance staff to ensure construction activities did not interfere with day-to-day maintenance operations.

### **ALTERNATIVES CONSIDERED**

Not performing the additional work described the modification and not approving the requested subcontractor substitutions would have negatively impacted contractor's ability to complete the contract work within the deadlines mandated by the State Water Control Board, which would have left the SFMTA vulnerable to citations and fines.

### **FUNDING IMPACT**

The Conceptual Engineering and Detailed Design Phase of the Project were funded with SFMTA Operating Funds. The Construction Phase is funded by SFMTA Operating Funds, SFMTA Fund Balance, and 2014 Transportation and Road Improvement General Obligation (GO) bond proceeds.

Contract Modification No.4 and associated staffing costs will be funded by an increase to the overall project budget of \$200,000

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

### **ENVIRONMENTAL REVIEW**

The Kirkland, Scott and Flynn Facilities Tank Upgrade Project is subject to the California Environmental Quality Act (CEQA). Title 14 of the California Code of Regulations Section 15301 provides an exemption from environmental review for the operation, repair, maintenance or minor alteration of existing public or private structures, facilities, or mechanical equipment involving negligible or no expansion of existing or former use. Section 15302 provides an exemption for 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, and Section 15061(b)(3) provides an exemption from environmental review where it can be seen with certainty that the proposed project would not have a significant effect on the environment.

On May 17, 2018, the Planning Department determined (Case Number 2016-005915ENV) that the proposed Kirkland, Scott and Flynn Facilities Tank Upgrade Project is exempt from CEQA as defined in Title 14 of the California Code of Regulations Sections 15301, 15302 and 15061(b)(3). The proposed Contract Modification No. 4, which provides for the addition of unlisted subcontractors, is within the scope of the 2018 Categorical Exemption.

The Planning Department's determination is on file with the Secretary to the SFMTA Board of Directors and may be found in the records of the Planning Department at 49 South Van Ness Avenue in San Francisco, and is incorporated herein by reference.

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**OTHER APPROVALS RECEIVED OR STILL REQUIRED**

None. The City Attorney Office has reviewed this calendar item.

**RECOMMENDATION**

Staff recommends that the SFMTA Board approve Modification No. 4 to SFMTA Contract No. 1291, Kirkland, Scott and Flynn Facilities Tank Upgrade Project with Pilot Construction Management, Inc. for the replacement of underground storage tanks at four SFMTA transit facilities to comply with State Water Control Board requirements, and that the Board approve the substitution of four subcontractors listed in the Contractor's bid, and to amend the final scope of work and adjust bid quantities, resulting in a net increase of \$47,585.82 of the contract amount, for a final contract amount of \$6,711,925.36 to close out the contract.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

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

WHEREAS, On December 6, 2016, the SFMTA Board of Directors adopted Resolution No. 16-163, authorizing the Director of Transportation to execute San Francisco Municipal Transportation Agency Contract No. 1291, Kirkland, Scott and Flynn Facilities Tank Upgrade Project, with Pilot Construction Management Inc. (Pilot) to replace underground fuel tanks at the three named SMFTA facilities, in the amount of \$5,362,995.90, and for a term of 810 calendar days; and,

WHEREAS, The storage tank work performed under the Contract was necessary to comply with a June 2015 Final Consent Judgement and Permanent Injunction with the State Water Control Board (SWRCB), which had issued citations and levied fines against the SFMTA for violation of State regulations concerning storage tanks; and,

WHEREAS, On June 6, 2018, the Director of Transportation approved Contract Modification No. 1, to redesign the shoring and tank excavation at Kirkland Yard, increasing the Contract amount by \$976,929.90 for a total amount not to exceed \$6,339,925.60; and,

WHEREAS, On June 20, 2018, the Director of Transportation approved Contract Modification No. 2, to furnish and install a redundant fuel system at Kirkland, increasing the Contract amount by \$179,999.74 for a total amount not to exceed \$6,519,925.34; and,

WHEREAS, On May 7, 2020, the Director of Transportation approved Contract Modification No. 3, for additional cost for permit fees, unforeseen work at several facilities and reducing scope related to the installation of new tanks and piping at Scott Facility, increasing the Contract amount by \$144,414 for a total amount not to exceed \$6,664,339.54 and increased the Contract Time by 19 Calendar Days; and,

WHEREAS, During construction, Pilot requested that four listed subcontractors be replaced. In accordance with the State Subletting and Subcontracting Fair Practices Act, Public Contract Code section 4100 et seq. (Subcontractor Listing Act), and staff authorized the substitutions to complete the work and meet state requirements to replace the existing underground tanks to comply with the consent agreement with the SWRCB; and,

WHEREAS, The Subcontractor Listing Act requires subcontractor substitutions be approved by the awarding authority or a duly authorized delegate, and the SFMTA Board of Directors is the awarding authority and has not delegated its authority to approve subcontractor substitutions; and,

WHEREAS, The SFMTA Board may approve the substitution of Barri Electric Substitution with McKee Electric under Public Contract section 4107(a) [subcontractor's inability to perform the work] and 4107(b) [subcontractor's voluntary transfer of the work to another subcontractor] and 4107(b) [subcontractor's voluntary transfer of the work to another subcontractor]; and,



WHEREAS, The SFMTA Board may approve the substitution of Paradiso Mechanical with CIW & Sons under Public Contract section 4107(a) [subcontractor's inability to perform the work] and 4107(b) [subcontractor's voluntary transfer of the work to another subcontractor]; and,

WHEREAS, The SFMTA Board may approve the substitution of Dirt Shop with Waste Solutions Group under Public Contract section 4107(a) [subcontractor's inability to perform the work] and 4107(b) [subcontractor's voluntary transfer of the work to another subcontractor]; and,

WHEREAS, The SFMTA Board may approve the substitution of JDB & Sons Substitution with Mission Constructors under Public Contract section 4107(a) [subcontractor's inability to perform the work]; and,

WHEREAS, There was additional unforeseen mechanical and plumbing work needed to replace a natural gas line around the new underground storage tanks at the Kirkland Yard at a cost of \$23,421.00; and,

WHEREAS, There was additional unforeseen sewer work at the Kirkland Yard was required to upgrade an existing catch basin at a cost of \$6,215.76; and,

WHEREAS, as part the Contract Closeout process, the estimated Contract bid item quantities were adjusted to reflect actual quantities and amounts of work provided and installed by the Contractor, resulting in a final adjustment to increase the contract by \$17,949.06; and,

WHEREAS, The Kirkland, Scott and Flynn Facilities Tank Upgrade Project is subject to the California Environmental Quality Act (CEQA); Title 14 of the California Code of Regulations Section 15301 provides an exemption from environmental review for the operation, repair, maintenance or minor alteration of existing public or private structures, facilities, or mechanical equipment involving negligible or no expansion of existing or former use; Section 15302 provides an exemption for 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, and Section 15061(b)(3) provides an exemption from environmental review where it can be seen with certainty that the proposed project would not have a significant effect on the environment; and,

WHEREAS, On May 17, 2018, the Planning Department determined (Case Number 2016-005915ENV) that the proposed Kirkland, Scott and Flynn Facilities Tank Upgrade Project is exempt from CEQA as defined in Title 14 of the California Code of Regulations Sections 15301, 15302 and 15061(b)(3); The proposed Contract Modification No. 4 to SFMTA Contract No. 1291, which provides for the addition of unlisted subcontractors, is within the scope of the 2018 Categorical Exemption; and,

WHEREAS, The Planning Department's determination is on file with the Secretary to the SFMTA Board of Directors and may be found in the records of the Planning Department at 49 South Van Ness Avenue in San Francisco, and is incorporated herein by reference; therefore, now be it,

RESOLVED, The SFMTA Board approves the substitution of Barri Electric Substitution with McKee Electric under Public Contract section 4107(a) [subcontractor's inability to perform the work] and 4107(b) [subcontractor's voluntary transfer of the work to another subcontractor] and 4107(b) [subcontractor's voluntary transfer of the work to another subcontractor]; and be it further

RESOLVED, The SFMTA Board approves the substitution of Paradiso Mechanical with CIW & Sons under Public Contract section 4107(a) [subcontractor's inability to perform the work] and 4107(b) [subcontractor's voluntary transfer of the work to another subcontractor]; and be it further

RESOLVED, The SFMTA Board approves the substitution of Dirt Shop with Waste Solutions Group under Public Contract section 4107(a) [subcontractor's inability to perform the work] and 4107(b) [subcontractor's voluntary transfer of the work to another subcontractor]; and be it further

RESOLVED, The SFMTA Board approves the substitution of JDB & Sons Substitution with Mission Constructors under Public Contract section 4107(a) [subcontractor's inability to perform the work]; and be it further

RESOLVED, That the SFMTA Board of Directors approves Modification No. 4 to SFMTA Contract No. 1291, Kirkland, Scott and Flynn Facilities Tank Upgrade Project with Pilot Construction Management, Inc. for the replacement of underground storage tanks at four SFMTA transit facilities to comply with State Water Control Board requirements, and that the Board approve for reasons of public necessity the substitution of four subcontractors listed in the Contractor's bid, and to amend the final scope of work and adjust bid quantities, resulting in a net increase of \$47,585.82 of the contract amount, for a final contract amount of \$6,711,925.36 to close out the contract.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of January 5, 2021.

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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

ENCLOSURE 2  
KIRKLAND, SCOTT AND FLYNN FACILITIES TANK UPGRADE PROJECT

San Francisco Municipal Railway Contract No. 1291  
Project Budget and Financial Plan

<b>Cost</b>	
Conceptual Engineering Phase Staff Support (SFMTA and Other Dept. Services)	\$196,988
Detail Design Phase Staff Support (SFMTA and Other Dept. Services)	\$1,048,205
Construction Phase Construction Contract, Contingency, and Staff Support	\$10,495,905
<b>Total Cost</b>	<b>\$11,741,098</b>

<b>Funding</b>	
SFMTA Operating Fund Balance	\$8,966,098
2014 Transportation and Road Improvement General Obligation (GO) bond	\$1,800,000
SFMTA Operating Dollars	\$2,900,000
Transportation Sustainability Fee (TSF) Maintenance	\$200,000
Senate Bill 1 (SB 1)	\$775,000
<b>Total Funding</b>	<b>\$11,741,098</b>



CONTRACT MODIFICATION NO. 4

San Francisco Municipal Transportation Agency  
Contract No. 1291  
Kirkland, Scott and Flynn Facilities Tank Upgrade  
Project

Contractor: Pilot Construction Management Inc.  
850 S. Van Ness Ave. Suite #22  
San Francisco, CA 94110

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This Contract is modified as follows:

1. Subcontractor Substitution:

In accordance with the Subletting and Subcontracting Fair Practices Act, California Public Contract Code section 4107, the SFMTA authorizes Contractor to substitute new subcontractors for listed subcontractors. The SFMTA is not responsible for and will not pay any additional compensation or incur any additional costs arising from these subcontractor substitutions.

Subcontractor Listed in Bid	New Subcontractor Substitution
Electrical Work	
Barri Electric Co (LBE)	McKee Electric (LBE)
Tanks & Pipe Installation	
Paradiso Mechanical (Non-LBE)	CIW & Sons Plumbing (Non-LBE)
Soil Off Haul	
Dirt Shop (LBE)	Waste Solutions Group (Non-LBE)
Paving	
JDB & Sons (LBE)	Mission Construction (LBE)

2. Additional Work

The following Work items are added to the Contract as Additional Work. SFMTA shall compensate Contractor its performance of the Additional Work in the lump-sum amounts listed below.

CM-4B. Additional Unforeseen Mechanical and Plumbing Work – Replace and re-route the natural gas line around the new underground storage tanks (USTs) at Kirkland Facility as detailed in Change Order Requests submitted under PCO #46 Rev.1 dated 11/28/2018.	\$23,421.00
CM-4C. Additional Unforeseen Sewer Work – Replace the existing VCP water trap at the catch basin with a new cast iron water trap with cleanout port as detailed in the following documents: Product data submittal no. 206.1 and Change Order Request submitted under PCO #50R dated 4/23/2019.	\$6,215.76
CM-4D. Adjustment to Unit Price bid item final quantities - The estimated Contract bid item quantities are adjusted to reflect actual quantities and amounts of work provided and installed by the Contractor, as listed on the attached Engineer’s Final Quantity Summary	\$17,949.06

3. Compensation

The following compensation items are added to the Contract:

CM-4B	Additional Unforeseen Mechanical and Plumbing Work	Lump Sum	\$23,421.00
CM-4C	Additional Unforeseen Sewer Work	Lump Sum	\$6,215.76
CM-4D	Adjustment to Unit Priced bid item final quantities	Lump Sum	\$17,949.06

Total Amount of this Contract Modification: \$47,585.82

Previous Total of Contract:	\$6,664,339.54
New Revised Total of Contract:	\$6,711,925.36

Total Contract Time added by this Contract Modification:	0 Days
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Previous Contract Substantial Completion Date: 02/15/19

Current Contract Substantial Completion Date: 02/15/19

### 3. Release of Claims

This Modification is made in accordance with Article 6 of the Contract General Provisions. As provided in General Provisions section 6.2.F, the compensation (time and cost) set forth in this Contract Modification No. 4 comprises the total of all compensation due to Contractor, all Subcontractors and all Suppliers, as a result of the events giving rise to the Contract Modification No. 4 and for the Additional Work, deleted Work, adjustment of quantities, and substitution of subcontractors described in this Contract Modification No. 4, including any time impact on unchanged Work, including delays and inefficiencies. The execution of this Contract Modification No. 4 constitutes a complete accord and satisfaction of any claim for additional compensation or time for the Additional Work and deleted Work effected by this Change Order, and Contractor on behalf of itself, and all Subcontractors and Suppliers, specifically waives and releases any and all claims rights or interest, including but not limited to legal and equitable claims for direct, indirect, and overhead costs, delay, impact, disruption, loss of efficiency or other special, extraordinary or consequential costs arising from or related to the Work described in this Contract Modification No. 4, without exception or reservation of any kind.

The SFMTA's payment of the compensation provided in this Contract Modification No. 4 fully satisfies the SFMTA's obligations under the Contract, and upon such payment Contractor releases the City from all claims and costs associated with extension of Contract Time and the performance of the Additional Work up through the effective date of this Contract Modification No. 4, including but not limited to any and all markups, overhead costs, direct and indirect costs for labor, materials, equipment, mobilization, demobilization, disruption, lost productivity, loss of efficiency, lost profits, lost opportunity costs, escalation, delay, extended overhead, administration and extended performance time. Contractor acknowledges that in so waiving all claims arising from or related to the Contract and its performance of the Contract, Contractor also waives all rights to any claims of which it is not aware arising from or

related to the Contract, and that it has read, considered and understands the provisions and significance of Section 1542 of the California Civil Code, which states:

SECTION 1542. GENERAL RELEASE. A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Contractor understands and acknowledges that a risk exists that it incurred or suffered or may incur or suffer, loss or damages as a result of the matters, facts, events, occurrences, transactions, causes and things referred to in this Contract Modification or the Contract which were unknown, unsuspected, or unanticipated at the time this Contract Modification was executed. Contractor assumes this risk and agrees that the foregoing release shall in all respects be effective and not subject to termination or rescission.

4. Changes Limited. Except as specifically provided herein, all other terms and conditions of the Contract remain unchanged.

5. Documents Incorporated by Reference. The following documents are attached and incorporated by reference to this Modification:

*Signatures are on the next page.*

In Witness Whereof, the parties have executed this Modification in San Francisco, California as of \_\_\_\_\_, 2020.

Pilot Construction Management, Inc.

CITY AND COUNTY OF SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY

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

*Signature*  
Lina Tan  
Project Manager

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

*Signature*  
Jeffrey P. Tumlin  
Director of Transportation

Authorized By:  
SAN FRANCISCO MUNICIPAL  
TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

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

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

Attest:

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

Secretary  
SF Municipal Transportation Agency

APPROVED AS TO FORM:  
Dennis J. Herrera, City Attorney

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

Robert K. Stone  
Deputy City Attorney