

THIS PRINT COVERS CALENDAR ITEM NO.: 10.4

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Streets

BRIEF DESCRIPTION:

Authorizing the Director of Transportation to execute Modification No. 2 to Contract No. 1315, San Jose Substation Upgrade Phase 1, with Cal State Constructors, Inc., to compensate the Contractor for extended overhead and labor escalation resulting from delayed substation access earlier in the project, design changes to Substation equipment, resolution of delay disputes from Modification No. 1, and a delay to the future shutdown for cutover work, in the amount of \$472,000, increasing the total Contract amount to an amount not to exceed \$3,894,951.44; and to extend the Contract term by 786 days, to a total of 1,286 days to substantial completion.

SUMMARY:

- On March 16, 2021, the SFMTA Board of Directors adopted Resolution No. 210316-034 to authorize award of Contract No. 1315, San Jose Substation Upgrade Phase 1, in the amount of \$3,197,014, and for a Term of 500 days to Substantial Completion.
- The Contract involves revising the existing traction power system feeder circuit at Green Metro Yard from one circuit into two separate circuits to provide emergency cross-connect for safety, redundancy, and ease of maintenance.
- The Contract was modified once before to unilaterally implement design changes that minimized operational impacts to Green Metro Yard by installing additional infrastructure utilizing an alternative circuit, increasing the Contract Amount by \$225,937.44 to \$3,422,951.44 with no time extension.
- This Modification increases the Contract Term and Contract Amount by \$225,937.44 to compensate the Contractor for extended overhead and labor escalation resulting from: (1) delayed substation access earlier in the project; (2) design changes to Substation equipment required by the SFMTA; (3) resolution of a dispute over delay arising from Modification No. 1; and (4) a delayed future shutdown for cutover work.
- The Planning Department has determined that the San Jose Substation Upgrade Phase 1 project is categorically exempt from CEQA.

ENCLOSURES:

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

APPROVALS:

DATE

DIRECTOR



July 31, 2024

SECRETARY



July 31, 2024

ASSIGNED SFMTAB CALENDAR DATE: August 6, 2024

PURPOSE

The purpose of this calendar item is to authorize the Director of Transportation to execute Modification No. 2 to Contract No. 1315, San Jose Substation Upgrade Phase 1, with Cal State Constructors, Inc., to compensate the Contractor for extended overhead and labor escalation resulting from delayed substation access earlier in the project, design changes to Substation equipment, resolution of delay disputes from Contract Modification No. 1, and a delay to the future shutdown for cutover work, in the amount of \$472,000, increasing the total Contract amount to an amount not to exceed \$3,894,951.44; and to extend the Contract term by 786 days, to a total of 1,286 days to substantial completion.

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

The Work to be performed under Contract Modification 2 to Contract No. 1315 supports the following goals in the SFMTA Strategic Plan and Transit First Policy Principles:

Strategic Goals:

4. Make streets safer for everyone.
5. Deliver reliable and equitable transportation services.
6. Eliminate pollution and greenhouse gas emissions by increasing use of transit, walking, and bicycling.
8. Fix things before they break and modernize systems and infrastructure.

This item supports the following 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.
8. New transportation investment should be allocated to meet the demand for public transit generated by new public and private commercial and residential developments.

DESCRIPTION

Background

On March 16, 2021, the SFMTA Board of Directors adopted Resolution No. 210316-034, which authorized the award of SFMTA Contract No. 1315, San Jose Substation Upgrade Phase 1, to Cal State Constructors, Inc., in the amount of \$3,197,014, and for a Contract Term of 500 days to Substantial Completion. This Contract aims to revise the existing traction power system feeder circuit at the Green Metro yard by dividing the yard into two different feeder circuits to provide an emergency cross-connect for safety, redundancy, and ease of maintenance. This will allow for greater flexibility and contingency for transit services.

Prior Contract Modifications

On May 14, 2024, the Director of Transportation unilaterally executed Contract Modification No. 1. This decision was made because the SFMTA and the Contractor were unable to reach a timely agreement on the time extension, and further delays would have impacted the project

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schedule. Contract Modification No. 1 was executed for \$225,937.44 with no time extension for the installation of additional infrastructure to utilize the spare feeder circuit SJ-17 in lieu of the Contract specified feeder circuit SJ-11 to minimize operational impacts to Metro Green yard during construction.

Current Status

Currently, the completion percentages for various components of SFMTA Contract No. 1315, San Jose Substation Upgrade Phase 1 (the Project) are as follows: traction power work completion is at 32% and overhead catenary work completion is at 12%. The anticipated date for substantial completion of the contract is February 28, 2025.

Current Modification

This Contract Modification No. 2 extends the duration to contract substantial completion by 786 days of which 528 days are compensable delay in the amount of \$472,000 for the following four delays: (1) delay in providing access to San Jose Substation due to SFMTA staffing shortages caused by Omicron variant of COVID-19 and prioritization of PG&E work (264 compensable days); (2) multiple design changes for the SJ-18 substation equipment delaying fabrication of long lead equipment (211 days of which 120 days are compensable); (3) resolution of delay dispute for Contract Modification No. 1 (252 days of which 144 days are compensable); and (4) and delayed shutdown for cutover work to occur in January 13, 2025 due to special events, such as baseball postseason, NBA season, and holidays (59 days of non-compensable days).

For the first three delays noted above, the Contractor requested for a compensable time extension of more than 700 days in the amount in excess of \$625,000. The SFMTA conducted a detailed schedule analysis and developed an independent cost estimate, determining that only 528 days were compensable. Negotiations were finalized with both parties reaching an agreement of 528 days of compensable delay in the amount of \$472,000 for the three delays. Both parties also agreed to a non-compensable time extension of 59 days for the fourth delay.

TRANSIT IMPACT

Impacts to the layover of the J Line are anticipated due to the additional shutdowns required under Modification 1's task *Utilize SJ-17 in lieu of SJ-11*, which requires the contractor to use a spare electrical circuit to separate the facility electrical circuits, which would allow the shop area to remaining fully functional during construction work. The shutdowns are necessary to mitigate electrical safety issues while installing the new infrastructure. This Modification 2 completes the compensation of the Contractor for this work. Additionally, the electrical construction activities cannot be completed while the J Line trains are temporarily parked on the tracks at Green Metro Yard because the electrical shutdown for the work will also shut off electricity to the train parking location. If there is a train parked at this location during the shutdown, it will not be able to be moved or used for revenue service.

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The project team is proactively coordinating with multiple departments, such as Transit Operations and Maintenance of Way, to minimize the impact on revenue service and potential delays. Transit impacts may be mitigated through the use of bus substitutions, work during non-revenue hours, and temporary relocation of affected trains.

STAKEHOLDER ENGAGEMENT

Since the work at Green Metro Yard is confined to the Light Rail Vehicle (LRV) maintenance yard and performed during regular work hours, the project team has determined that there will be no impact to the residential and commercial neighbors adjacent to the facility. As such, it was decided that notifying the neighbors was unnecessary. However, the project team is committed to proactive communication and community engagement. Should any future work impact the surrounding community, comprehensive outreach will be conducted to ensure all affected parties are informed and any concerns are addressed properly.

SFMTA Transit management and Green Metro Yard staff have consistently expressed their support of the new traction power system since the project's design phase, recognizing its potential to enhance worker safety and operational efficiency. Both groups have been actively involved throughout the construction phase, collaborating closely with the project team. Their ongoing participation ensures that the project will receive comprehensive support, facilitating the successful execution of the contractual work.

ALTERNATIVES CONSIDERED

The project team thoroughly evaluated the alternative of terminating the existing contract and issuing a new contract for the remaining work. However, this approach was determined to be more costly and have a significant impact the project timeline, leading to even greater delays. Furthermore, the increased risk associated with transitioning the work to a new contractor was deemed unacceptable, as it would have introduced further uncertainties and complications.

Completing the work under the current contract also allows the SFMTA to assist in the development of a small business enterprise, reinforcing our commitment to fostering local economic growth and development.

FUNDING IMPACT

This Modification will be funded through the existing San Jose Substation project budget. The contract increase was funded by reallocating funds from the Fixed Guideway Program Reserve, which is specifically set aside for contract modifications.

ENVIRONMENTAL REVIEW

The San Jose Substation Upgrade Phase 1 project is subject to the California Environmental Quality Act (CEQA). CEQA provides a categorical exemption from environmental review for the operation, repair, maintenance, or minor alteration of existing public or private structures,

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including interior or exterior alterations as defined in Title 14 of the California Code of Regulations Section 15301.

On November 14, 2019, the Planning Department determined (Case Number 2019-019468ENV) that the San Jose Substation Upgrade Phase 1 project is categorically exempt from CEQA as defined in Title 14 of the California Code of Regulations Section 15301.

Contract modification (CMOD) 1 and CMOD 2 are within the scope of the San Jose Substation Upgrade Phase 1 project found to be categorically exempt on November 14, 2019.

A copy of the CEQA 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 in San Francisco, and is incorporated herein by reference.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

The Contract Compliance Office has reviewed this report.

The City Attorney's Office has reviewed the calendar item. No other approvals are required.

RECOMMENDATION

Staff recommends that the SFMTA Board of Directors authorize the Director of Transportation to execute Modification No. 2 to Contract No. 1315, San Jose Substation Upgrade Phase 1, with Cal State Constructors, Inc., to compensate the Contractor for extended overhead and labor escalation resulting from delayed substation access earlier in the project, design changes to Substation equipment, resolution of delay disputes from Contract Modification No. 1, and a delay to the future shutdown for cutover work, in the amount of \$472,000, increasing the total Contract amount to an amount not to exceed \$3,894,951.44; and to extend the Contract term by 786 days, to a total of 1,286 days to substantial completion.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, On March 16, 2021, the San Francisco Municipal Transportation Agency (SFMTA) Board of Directors adopted Resolution No. 210316-034, which authorized the award of SFMTA Contract No. 1315, San Jose Substation Upgrade Phase 1, with Cal State Constructors, Inc., in the amount of \$3,197,014, and for a term of 500 days to Substantial Completion; and,

WHEREAS, The work under the Contract involves revising the existing traction power system feeder circuit at the Green Metro Yard to provide an emergency cross-connect for safety, redundancy, and ease of maintenance; and,

WHEREAS, On May 14, 2024, the Director of Transportation executed Contract Modification No. 1 unilaterally for \$225,937.44 with no time extension for the installation of additional infrastructure to utilize the spare feeder circuit SJ-17 in lieu of the Contract specified SJ-11 to minimize operational impacts to Metro Green Yard during construction; and,

WHEREAS, Access to the San Jose Substation was delayed by 264 calendar days due to staffing shortages caused by Omicron variant of COVID-19 and prioritization of PG&E work; and,

WHEREAS, Multiple design changes to the SJ-18 substation equipment delayed fabrication time of long lead equipment, resulting in a delay of 211 calendar days; and,

WHEREAS, The disputed time associated to unilateral Contract Modification No. 1 for the installation of additional infrastructure to utilize the spare feeder circuit SJ-17 in lieu of the Contract specified SJ-11 to minimize operational impacts to Metro Green Yard during Construction was resolved; the SFMTA agreed to a time extension of 252 calendar days; and,

WHEREAS, Delayed shutdown for cutover work to occur on January 13, 2025, due to special events, such as baseball postseason, NBA season, and holidays necessitated a time extension of 59 calendar days; and,

WHEREAS, The above delays increased the contract amount by \$472,000 and extended the Contract Term by 786 days, for a new substantial completion date of February 28, 2025; and,

WHEREAS, The San Jose Substation Upgrade Phase 1 Project, is subject to the California Environmental Quality Act (CEQA); CEQA provides a categorical exemption from environmental review for minor alterations to existing facilities as defined in Title 14 of the California Code of Regulations Section 15301; and,

WHEREAS, On November 14, 2019, the Planning Department determined (Case Number 2019-019458ENV) that the San Jose Substation upgrade Phase 1 Project was categorically exempt from review under CEQA, pursuant to Title 14 of California Code of

Regulations Section 15301; and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and is incorporated herein by reference; and,

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors authorizes the Director of Transportation to execute Modification No. 2 to Contract No. 1315, San Jose Substation Upgrade Phase 1, with Cal State Constructors, Inc., to compensate the Contractor for extended overhead and labor escalation resulting from delayed substation access earlier in the project, design changes to Substation equipment, resolution of delay disputes from Contract Modification No. 1, and a delay to the future shutdown for cutover work, in the amount of \$472,000, increasing the total Contract amount to an amount not to exceed \$3,894,951.44; and to extend the Contract term by 786 days, to a total of 1,286 days to substantial completion.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of August 6, 2024.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

ENCLOSURE 2

CONTRACT MODIFICATION NO. 2

San Francisco Municipal Transportation Agency
Contract No. 1315
San Jose Substation Upgrade Phase 1

Contractor: Cal State Constructors, Inc.
246 2nd St, Suite 808
San Francisco, CA 94124

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The Contract is modified as follows:

1. Scope of Change	Amount
CM-2 <u>Time Extension:</u>	\$472,000

Extend the Contract term by 786 calendar days (528 days are compensable and 258 days are non-compensable) for a new substantial completion date of February 28, 2025 due to the following:

- Substation Access: SFMTA could not provide timely access to the San Jose Substation delaying the contract Substantial Completion by 264 compensable days.
- Design Change to SJ-18: SFMTA issued design changes to SJ-18 substation equipment under Proposed Contract Change No. 003 dated June 2, 2023, which resulted in increased engineering and fabrication time. This increased contract duration to Substantial Completion by 211 days (120 days are compensable and 91 days are non-compensable).
- Resolution of Delay dispute for Contract Modification 1: Performing work under Contract Modification 1 to utilize spare feeder circuit SJ-17 in Lieu of feeder circuit SJ-11 delayed the contract Substantial Completion by 252 days (144 days are compensable and 108 days are non-compensable).
- Delayed Shutdown: Shutdown needed to connect newly installed electrical work to the existing system is delayed by 59 days to January 13, 2025.

The total amount of \$472,000 is inclusive of all costs associated to each compensable time extension request and labor escalation for the years 2023 and 2024.

2. Add the following new Contract Pay Items:

Item	Description	Qty	Unit	Unit Price	Amount
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CM-2	Compensable Time Extension	-	LS	-	\$472,000
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Total Amount of this Contract Modification: Increase \$472,000

Previous Total of Contract: \$3,422,951.44

New Revised Total of Contract: \$3,894,951.44

Total Contract Time Added by this Contract Modification:	786 Days
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Previous Contract Substantial Completion Date: 01/04/2023

Current Contract Substantial Completion Date: 02/28/2025

3. This Contract Modification is made in accordance with Article 6 and 7 of the General Provisions of the Contract.
4. Except as specifically stated herein, all other terms and conditions of the Contract remain unchanged.
5. The compensation (time and cost) set forth in this Modification comprises the total of all compensation due to Contractor, all Subcontractors, and all Suppliers, as a result of the events giving rise to the Modification and for the Additional Work described in this Modification, including any time impact on unchanged Work, including delays and inefficiencies. The execution of this Modification constitutes an accord and satisfaction of any claim for additional compensation or time for the Additional Work effected by this Modification, 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 the Modification, without exception or reservation of any kind.

In Witness Whereof, this Modification has been executed in San Francisco, California, as of this date:

_____.

Cal State Constructors, Inc.
MUNICIPAL TRANSPORTATION AGENCY

CITY AND COUNTY OF SAN FRANCISCO

By: _____
Declan Madden
Project Manager

By: _____
Jeffrey P. Tumlin
Director of Transportation

Authorized By:

San Francisco Municipal Transportation
Agency
Board of Directors
Resolution No. _____
Adopted: _____

Attest:

Christine Silva, Secretary
SFMTA Board of Directors

APPROVED AS TO FORM:
David Chiu, City Attorney

By: _____
David F. Innis
Deputy City Attorney

ENCLOSURE 3

SAN JOSE SUBSTATION UPGRADE PHASE 1

San Francisco Municipal Transportation Agency, Contract No. 1315

Project Budget and Financial Plan

Cost	Amount
Preliminary Engineering Staff support (SFMTA and Other City Service)	\$60,363
Detail Design Phase Staff support (SFMTA and Other City Service)	\$859,033
Construction Phase Staff support (SFMTA and Other City Service)	\$7,067,075
Total Cost	\$7,986,471

Funding	Amount
FTA 5337	\$5,760,967
AB664 Bridge Tolls	\$650,371
General Fund Prop B Transit	\$224,804
Operating Fund Balance	\$116,471
GO Bond 2021 Issuance	\$1,233,858
Total Committed	\$7,986,471