

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. 180605-085

WHEREAS, the San Francisco Municipal Transportation Agency (SFMTA) Contract No. 1281, Muni Metro Subway Escalator Rehabilitation Phase II, will rehabilitate 17 escalators in the Muni Metro Subway stations; and,

WHEREAS, On January 20, 2015, the SFMTA Board of Directors adopted Resolution No. 15-014, authorizing the Director of Transportation to execute Contract No. 1281, Muni Metro Subway Escalator Rehabilitation Phase II, with Schindler Elevator Corporation (Schindler) at a cost not to exceed \$19,582,833, and for a term of 1335 calendar days; and,

WHEREAS, While the Contract work was underway, the SFMTA discovered that at the time it submitted its bid, Schindler failed to list two subcontractors that were scheduled to perform work in excess of half of one percent of the bid amount: L&W Construction for \$153,000; and Cal-West Inc., in the amount of \$102,000, in violation of California's Subletting and Subcontracting Fair Practices Act (Public Contract Code Sections 4100 et seq.); and,

WHEREAS, Public Contract Code Section 4109 authorizes an owner to permit an unlisted subcontractor to perform work only "in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the awarding authority setting forth the facts constituting the emergency or necessity; and,

WHEREAS; During the first stage of the Contract, Schindler saw that the trusses, as well as the metal pans and pits of the escalators at Hallidie Plaza and Harvey Milk Plaza were extremely layered with grease and oil, and contained hypodermic needles and human biohazards; and

WHEREAS, Schindler determined that it had to hire a specially qualified and certified company, L&W Construction, to remove these hazards and other materials and certify that the existing trusses are safe from all hazards; and,

WHEREAS, The SFMTA and Schindler anticipate the same degree of grease buildup, biohazards and concrete coring depths throughout work on the remaining escalators that will be rehabilitated under the Contract; and,

WHEREAS, Schindler also determined that the new electrical feeders required core drilling of 3" holes in the existing concrete wall at a depth of 12" plus or minus; Schindler claimed that it did not anticipate having to perform core drilling and did not have qualified personnel to do this work; Schindler therefore hired Cal-West Inc., which has the personnel capable of x-raying the concrete walls to avoid damage to structural rebar and electrical conduits during the core drilling; and,

WHEREAS, Based on the above facts and circumstances, the SFMTA Board finds that the work being done by L&W Construction and Cal West Inc. is critical and necessary to protect the public health and safety; and,

WHEREAS, The SFMTA Board agrees that terminating the contract under these circumstances is not warranted; and,

WHEREAS, Schindler has agreed to the imposition of a ten percent penalty of \$25,500 under Public Contract Code Section 4110; and,

WHEREAS, On January 26, 2018, the SFMTA, under authority delegated by the Planning Department, determined that the proposed Contract Modification No. 2 to SFMTA Contract No. 1281 is not defined as a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); 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; now, therefore, be it

RESOLVED, That based on the above findings, the SFMTA Board determines that Schindler's addition of L&W Construction and Cal West Inc. to assist in performing the escalator work is a "public necessity" under Public Contract Code Section 4109; and be it further

RESOLVED, That the SFMTA Board of Directors imposes a penalty on Schindler of \$25,500, as authorized under Public Contract Code Section 4110, to reduce the contract amount from \$19,582,833 to \$19,557,333; and be it further

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to execute Contract Modification No. 2 to the SFMTA Contract No. 1281, Muni Metro Subway Escalator Rehabilitation Phase II, with Schindler Elevator Corporation, to add L&W Construction and Cal West Inc., which were not listed on the subcontractors' list at the time of bid, as subcontractors.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of June 5, 2018.

  
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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency