

**THIS PRINT COVERS CALENDAR ITEM NO.: 10.3**

**SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

**DIVISION:** Capital Programs and Construction

**BRIEF DESCRIPTION:**

Authorizing the Director of Transportation to execute Modification No. 3 to Contract No. 1309R, Muni Metro East – Boiler and HVAC Rehabilitation Project, with Cal State Constructors, Inc., to increase the Contract Amount by \$98,703 and retroactively extend the Contract term by 364 non-compensable days.



**SUMMARY:**

- On, January 7, 2020, the SFMTA Board of Directors awarded Contract No. 1309R, Muni Metro East – Boiler and HVAC Rehabilitation Project (Contract), to Cal State Constructors, Inc. (Contractor) to demolish and dispose of specific equipment and systems, decommission the existing condensing units, procure, install and commission new condenser units and boiler units, perform structural work for condenser units and perform testing and balancing, in the amount of \$2,587,000, and for a Contract term of 325 calendar days to Substantial Completion.
- The Contract was previously modified twice: (1) to implement additional safe work practices due to the COVID-19 emergency; and (2) to perform additional work for the HVAC system, increasing the Contract amount by \$500,437, with no impact to the Contract term.
- Under this Modification, the Contractor will procure and replace damaged heating coils for the air handling units. The Modification also retroactively extends the Contract term by 364 non-compensable days to perform the HVAC works.

**ENCLOSURES:**

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

**APPROVALS:**

DIRECTOR   
SECRETARY 

**DATE**

October 26, 2021

October 26, 2021

**ASSIGNED SFMTAB CALENDAR DATE:** November 2, 2021

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## **PURPOSE**

The purpose of this calendar item is to authorize the Director of Transportation to execute Modification No. 3 to Contract No. 1309R, Muni Metro East – Boiler and HVAC Rehabilitation Project, with Cal State Constructors, Inc., to increase the Contract Amount by \$98,703 and retroactively extend the Contract term by 364 non-compensable days.

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

The work to be performed under Contract No. 1309R supports the following SFMTA Strategic Plan Goals and Objectives:

- Goal 1: Create a safer transportation experience for everyone.
  - Objective 1.2 Improve the safety of the transportation system.
  
- Goal 2: Make transit and other sustainable modes of transportation most attractive and preferred means of travel.
  - Objective 2.1 Improve transit service.
  
- 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 3.4 Provide environmental stewardship to improve air quality, enhance resource efficiency, and address climate change.

The work to be performed under Contract No. 1309R 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.
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.
3. 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, January 7, 2020, the SFMTA Board of Directors adopted Resolution No. 200107-004,

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awarding Contract No. 1309R, Muni Metro East – Boiler and HVAC Rehabilitation Project (Contract), to Cal State Constructors, Inc. (Contractor), in the amount of \$2,587,000, and for a Contract term of 325 calendar days to Substantial Completion.

The Agency issued Notice to Proceed with the work to the Contractor effective February 3, 2020, establishing a contractually required Substantial Completion date of December 23, 2020.

Work performed under the Contract included the following:

- Demolish and dispose of specific equipment and systems at the Muni Metro East (MME) facility.
- Survey, test, and repair or replace as required, the existing hydronic system and refrigerant system, with the purpose of providing fully functional systems. Survey the existing domestic water line to provide routing for the domestic water system related to the new hose bibbs.
- Remove and replace existing OSA actuators, rod, and linkages for the wall louvers and AHU louvers.
- Provide piping and accessories for two new hose bibbs in the mechanical mezzanine.
- Replace and relocate components of the main cooling system for the MME building.
- Replace components of the main heating system for the MME building.
- Replace the boiler system for the MME building.
- Provide factory testing of the new boiler system, witnessed by the SFMTA.
- Add heating, cooling, and ventilation to two rooms within MME.
- Train, test, balance, start-up, and reconfigure new systems with existing systems. Building management system to be reinstated and reprogrammed. A comprehensive program for testing, training, and start-up of the new and existing systems and components installed in the work of this Contract, including programming HVAC controls systems, preparing operations and maintenance manuals, providing training for the City's operating and maintenance personnel and completing start-up procedures and requirements as detailed in the Specifications.

### **Prior Contract Modifications**

On July 16, 2020, the Director of Transportation approved Contract Modification No. 1 for \$200,000 to provide an allowance for the Contractor to implement additional safe work practices due to the COVID-19 emergency.

On August 3, 2021, the Director of Transportation approved Contract Modification No. 2 for \$300,437, to perform additional testing, balancing, and commissioning for the MME hydronic and HVAC system. The time impact for that work was unknown at that time, so it is incorporated into Modification No. 3.

**Contract Modification No. 3**

Contract Modification No. 3 includes two items as follows: (1) unanticipated procurement and replacement of heating coils due to weather, for an increase of \$98,703 to the Contract amount and an increase to the Contract term of 75 non-compensable days, and (2) the time impact for the work performed under Modification No. 2, i.e., an increase to the Contract term of 289 non-compensable days. In summary, this Contract Modification would increase the Contract amount by \$98,703 and retroactively extend the duration of the Contract by a total of 364 days.

Procurement and Replacement of Heating Coils (75 days)

On December 21, 2020, cold weather conditions froze and burst the existing heating coils in the Air Handling Units (AHU) 1 and 2. Replacement of those heating coils was not part of the original scope, but became necessary to start up and test the complete HVAC system. Without the heating coils, the newly installed boiler would not achieve optimal capabilities. The replacement of the heating coils required 75 days for the review and approval, delivery, installation, and testing of the replacement work. The Contractor and the SFMTA agree that this delay was attributable to both the Contractor and the SFMTA, and therefore non-compensable.

Testing and Balancing (TAB) and Commissioning for Hydronic and HVAC System (289 days)

Based on the original TAB report performed in 2008, the project was designed under the assumption that the building's hydronic system was fully functional and correctly balanced. Therefore, the Contract only required the new equipment to be tested and balanced. Parts of the hydronic system outside the project scope were not to be included.

However, a new TAB report dated April 8, 2021, demonstrated that the building's hydronic system was not correctly balanced and that the pumps installed were cycling water at a significantly higher flow rate. The high GPM (gallons per minute) indicated that the new pumps were functioning above their specified operational range, causing excessive wear, and would ultimately result in premature failure. In a short timeframe, the overall hydronic system, especially all the valves, could have also experienced excessive wear. Any adjustment to the newly installed equipment could not balance the overall system regardless of the Contractor's extensive tests on the new equipment. The existing conditions would void the pump's warranty if not addressed properly.

In addition, the hydronic system required chemical treatment and installation of discharge temperature air sensors at 43 variable air volume (equipment to collect accurate data when conducting the TAB on the building's hydronic system.

The additional work related to the TAB and commissioning of the hydronic and HVAC system required 289 days to complete. The Contractor and the SFMTA agree that this delay should be considered concurrent and therefore non-compensable.

In conclusion, this Contract Modification No. 3 increases the Contract amount by \$98,703 and

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retroactively extends the duration for the Contractor to achieve substantial completion by 364 days, for a new Substantial Completion date of December 22, 2021.

### **Current Status**

The contractor has completed procurement and installation of two hose bibs piping and accessories, installation of structural work, and procurement, installation and commissioning of both condenser units and boiler units. Contract No. 1309R is approximately 90% completed.

### **Justification for a Retroactive Approval**

The project team could not submit the time extension prior to August 2021 because the Contractor would not commit to a work plan and construction schedule until Contract Modification No. 2 was approved. After Contract Modification No. 2 was approved on August 3, 2021, Contractor provided a work plan and construction schedule for review. The project team was then able to put together the documents and evaluation, and submit the request to retroactively extend the Contract Time accordingly.

### **STAKEHOLDER ENGAGEMENT**

The work at the MME Facility is limited to work within the building, including an office space, a storage room, mechanical room, boiler room and on the roof. The work does not directly impact transit service.

Prior to the award of this Contract, local residents and businesses were contacted and have been kept informed about construction progress throughout the duration of the Project. There was no additional outreach done for this Contract Modification.

### **ALTERNATIVES CONSIDERED**

None.

### **FUNDING IMPACT**

The Project's total cost is approximately \$6.4 million and is locally funded. The sources of funding are listed in the enclosed Project Budget and Financial Plan.

Contract Modification No. 3 will be funded through existing Project construction funds with no impact to the overall project budget.

### **ENVIRONMENTAL REVIEW**

The proposed Contract Modification No. 3 extends the term of an original contract consisting of

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in-kind repair of portions of existing structures not visible from the public right-of-way and did not involve expansion of the structure.

On July 18, 2019, the SFMTA, under authority delegated by the Planning Department, determined that the Muni Metro East Boiler and HVAC Rehabilitation Project is not 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).

The proposed Contract Modification No. 3 is within the scope of the 2019 CEQA determination, as the modification only includes a time extension of the Contract.

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

**OTHER APPROVALS RECEIVED OR STILL REQUIRED**

The City Attorney’s Office and the Contract Compliance Office have 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. 3 to Contract No. 1309R, Muni Metro East – Boiler and HVAC Rehabilitation Project, with Cal State Constructors, Inc., to increase the Contract amount by \$98,703 and retroactively extend the Contract term by 364 non-compensable days.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

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

WHEREAS, On January 7, 2020, the SFMTA Board of Directors adopted Resolution No. 2000107-004, awarding Contract No. 1309R, Muni Metro East – Boiler and HVAC Rehabilitation Project, to Cal State Constructors, Inc. (Contractor), to demolish and dispose of specific equipment and systems, decommission the existing condensing units, procure, install and commission new condenser units and boiler units, perform structural work for condenser units and perform testing and balancing, in the amount of \$2,587,000, and for a Contract term of 325 days to Substantial Completion; and,

WHEREAS, On January 30, 2020, the SFMTA issued a written notice to proceed to the Contractor to commence on February 3, 2020, establishing a Substantial Completion date of December 23, 2020; and,

WHEREAS, On July 28, 2020, the Director of Transportation approved Contract Modification No. 1 for \$200,000, to provide an allowance to the Contractor to implement additional safe work practices due to the COVID-19 emergency; and,

WHEREAS, On August 3, 2021, the Director of Transportation approved Contract Modification No. 2 for \$300,437, to perform additional work for the Muni Metro East HVAC system; and,

WHEREAS, In order for the Contractor to perform additional, unanticipated work to replace the building’s heating coils damaged by inclement weather, Contract Modification No. 3 increases the Contract amount by \$98,703 and increases the Contract term by 75 non-compensable days; in addition, Contract Modification No. 3 increases the Contract term by 289 non-compensable days for the work performed under Modification No. 2, for a total of 364 days to Substantial Completion and a new Substantial Completion date of December 22, 2021; and,

WHEREAS, The SFMTA Contract Compliance office has reviewed this Contract Modification and has determined that the Contractor has complied with the Local Business Enterprise participation goals of the Contract; and,

WHEREAS, On July 18, 2019, the SFMTA, under authority delegated by the Planning Department, determined that the Muni Metro East Boiler and HVAC Rehabilitation Project is not 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 SFMTA Board of Directors authorizes the Director of Transportation to execute Modification No. 3 to Contract No. 1309R, Muni Metro East – Boiler and HVAC Rehabilitation Project, with Cal State Constructors, Inc., to increase the Contract Amount by \$98,703 and retroactively extend the Contract term by 364 days.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of November 2, 2021.

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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency



## ENCLOSURE 2

Muni Metro East – Boiler and HVAC Rehabilitation Project

San Francisco Municipal Transportation Agency, Contract No. 1309R,

### Project Budget and Financial Plan

Cost	Amount
Preliminary Engineering Phase Staff Support (SFMTA and Other City Services)	\$ 124,449
Detail Design Phase Staff Support (SFMTA and Other City Services)	\$ 716,687
Construction Phase Construction Contract, Contingency, and Staff Support	\$ 5,632,808
<b>Total Cost</b>	<b>\$ 6,473,944</b>

Funding	Amount
General Fund Subsidy (Population Based Baseline)	\$ 2,418,591
SFMTA Operating	\$ 1,588,659
Go Bond Prop A	\$ 2,400,000
TBD Funding Need	\$ 66,694
<b>Grand Total</b>	<b>\$ 6,473,944</b>

**ENCLOSURE 3**

Muni Metro East – Boiler and HVAC Rehabilitation Project  
San Francisco Municipal Transportation Agency, Contract No. 1309R,  
Contract Modification No. 3

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**CONTRACT MODIFICATION NO. 3**

**SFMTA Contract No. 1309R  
Muni Metro East– Boiler and HVAC Rehabilitation  
Project**

**Contractor: Cal State Constructors, Inc.  
246 Second St., Suite 808  
San Francisco, CA 94105**

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The Contract has been modified as follows:

1. Scope of Work

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CM-3.A	<b><u>Procure and Replace Damaged Heating Coils for Air Handling Units (AHUs) 1 and 2.</u></b> Procure and replace heating coils for AHUs 1 and 2, as detailed in Change Order Request 03 dated 12/30/2020.  The agreed lump sum amount includes all costs, including labor, equipment, materials, design, installation, additional field supervision, additional insurance and bond, and any and all incidental costs to perform this work.	\$98,703
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**CM-03 Contract Increase: \$98,703.00**

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CM-3.B	<b><u>Non-compensable Time Extension for Additional Work to Replace Heating Coils and Additional Testing and Balancing and Commissioning for the Muni Metro East (MME) Hydronic and HVAC system.</u></b> Extend the Contract term by 364 calendar days for a new Substantial Completion date of December 22, 2021. The time extension is non-compensable (see General Provisions Article 7.02.H) due to unavoidable delays caused by:	\$0
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- 1) Unexpected procurement and replacement of heating coils for AHU 1 and 2 – 75 non-compensable days
  - 2) Testing and balancing and commissioning for the MME hydronic and HVAC system – 289 non-compensable days. (Contract Modification 2 was executed to perform and pay for this work; however, the schedule impact was not determined at that time and was deferred.

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**CM-3.B Contract Increase: 364 non-compensable days**

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2. Add the following new Contract Pay Items:

CM-3.A	Additional Work to Replace Damaged Heating Coils for Air Handling Units (AHUs) 1 and 2	Lump Sum	\$98,703
Total Amount of this Contract Modification:		Increase	\$98,703
		Previous Total of Contract:	\$3,087,437
		New Revised Total of Contract:	\$3,186,140
Total Contract Time added by this Contract Modification:			364 Days
		Previous Contract Substantial Completion Date:	12/23/20
		Current Contract Substantial Completion Date:	12/22/21

3. This Modification is made in accordance with Article 6 and 7 of the Contract General Provisions.
4. Except as provided herein, all previous terms and conditions of the Contract remain unchanged.
5. Contractor acknowledges and agrees that the compensation described above shall be full accord and satisfaction of all current and prospective costs incurred in connection with the extra work and extensions of time under this Contract Modification, without limitation, including any and all markups and overhead. Contractor releases the City from all claims, for which full accord and satisfaction is made, as set forth above. If this modification involves the granting of extensions of time with cost, Contractor releases the City from all claims and costs associated with such extensions 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.

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

**Cal State Constructors, Inc.**

**CITY AND COUNTY OF SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY**

By: \_\_\_\_\_  
*Signature*  
Declan Madden  
Project Manager

By: \_\_\_\_\_  
*Signature*  
Jeffrey P. Tumlin  
Director of Transportation

**Authorized By:**

MUNICIPAL TRANSPORTATION  
AGENCY BOARD OF DIRECTORS

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

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

Attest:

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

Secretary  
Municipal Transportation Agency

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

By: \_\_\_\_\_  
Robin M. Reitzes  
Deputy City Attorney