

**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 Contract Modification No. 2 to SFMTA Contract No. 1247R, Presidio Trolley Coach Facility – Presidio Bus Lifts, with Makai Solutions, to substitute subcontractor Cal-Con Pumping, Inc., with D&D Concrete Construction, for no additional cost and no extension to the Contract term.

**SUMMARY:**

- On July 16, 2019, the SFMTA Board of Directors adopted Resolution No. 190716-089, awarding Contract No. 1247R to Makai Solutions in the amount of \$2,854,660 for a term of 450 days.
- The scope of work under this project is to replace and install new vehicle lifts, new overhead roll-up doors, and new security gates at the Presidio Trolley Coach Facility.
- At the time of bid, Makai Solutions identified Cal-Con Pumping, Inc. (CCP) as a subcontractor to meet the required 2% goal for Woman’s Disadvantaged Business Enterprise (WDBE) participation.
- After the Contract was awarded, CCP lost its WDBE Certification and did not respond to inquiries from Makai Solutions or the SFMTA.
- Makai Solutions selected D&D Concrete Construction (a certified WDBE) to replace CCP.

**ENCLOSURES:**

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

**APPROVALS:**

DIRECTOR 

SECRETARY 

**DATE**

October 14, 2020

October 14, 2020

**ASSIGNED SFMTAB CALENDAR DATE:** October 20, 2020

## **PURPOSE**

The purpose of this calendar item is to authorize the Director of Transportation to execute Contract Modification No. 2 to SFMTA Contract No. 1247R, Presidio Trolley Coach Facility – Presidio Bus Lifts, with Makai Solutions, to substitute subcontractor Cal-Con Pumping, Inc. with D&D Concrete Construction, for no additional cost and no extension to the Contract term.

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

The Work to be performed under Contract No. 1247R supports the following goals and objectives in the SFMTA Strategic Plan and Transit First Policy Principles:

- Goal 1: Create a safer transportation experience for everyone.
  - Objective 1.2: Improve the safety of the transit system.
  
- Goal 2: Make transit and other sustainable modes of transportation the 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
  - Objective 3.1: Reduce the Agency's and the transportation system's resource consumption, emissions, waste and noise.
  - Objective 3.2: Increase the transportation system's positive impact to the economy.
  - Objective 3.3: Allocate capital resources effectively.
  - Objective 3.4: Deliver services efficiently.
  
- Goal 4: Create a workplace that delivers outstanding service.
  - Objective 4.2: Improve the safety, security, and functionality of SFMTA work environments. Reduce the Agency's and the transportation system's resource, waste and noise.
  - Objective 4.5: Increase the efficiency and effectiveness of business processes and project delivery through the implementation of best practices.

The action supports the following principle in the SFMTA 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.

## **DESCRIPTION**

The SFMTA's Presidio Maintenance Facility is a 5.75-acre site located in the Laurel Heights neighborhood of San Francisco. At Presidio, the SFMTA maintains a fleet of approximately 165 40-foot electric trolley buses. The facility provides preventative maintenance and light body repair of the vehicles. The existing bus lifts were installed in the mid-1980's and are beyond the end of their useful life. The existing lifts break down frequently, impacting the staff's ability to maintain buses and keep them in service. Also, the existing lifts do not have the latest features necessary for a safe working environment.

The Work under this Project includes:

1. Removal and demolition of one existing parallelogram lift, four existing in-ground lifts, and associated concrete foundations.
2. Removal and demolition of the existing floor slab at the location of the new parallelogram lift.
3. Installation of two new flush mount parallelogram lifts and four new in-ground lifts in new foundations.
4. Furnishing and installation of seven motor-operated roll-up doors and two bi-swing gates.
5. Electrical work required to furnish and install the new lifts and the motor-operated roll-up doors.
6. Soil sampling and laboratory testing for hazardous materials of below-ground soil at the locations of the new lifts.

The SFMTA believes that the proposed Project will improve worker safety by installing new lifts that have the latest safety features, increase work efficiency by improving access to the bus undercarriage, and reduce infrastructure maintenance requirements.

On July 16, 2019, the SFMTA Board of Directors adopted Resolution No. 190716-089, awarding Contract No. 1247R (the Contract) to Makai Solutions in the amount of \$2,854,660 for a term of 450 days.

At the time of bid, Makai Solutions identified Cal-Con Pumping, Inc. (CCP) as a subcontractor for concrete work. CCP would meet the required 2% goal for WDBE participation. After the Contract was awarded, the SFMTA's Contract Compliance Office (CCO) notified Makai Solutions that CCP no longer was certified as a WDBE. After receiving the notification, Makai Solutions advised the SFMTA that it had made numerous attempts to reach CCP to determine whether CCP was trying to reinstate its WDBE certification and if CCP would be able to enter into a subcontract for the quoted work.

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On April 14, 2020, Makai Solutions notified the SFMTA that it was unable to reach CCP and requested to substitute CCP with another WDBE-certified contractor.

On April 15, 2020, the SFMTA informed Makai Solutions that in order to substitute another concrete subcontractor for CCP, Makai must fully comply with the State's Subletting and Subcontracting Fair Practices Act for substituting listed subcontractors. The Subcontracting Act authorizes substitution of a listed subcontractor, among other reasons, when the proposed subcontractor fails to sign a contract with the prime contractor.

On June 22, 2020, in accordance with the Subcontracting Act, the SFMTA notified CCP about the requested substitution, and advised CCP to present any objections it had. CCP failed to respond.

Makai Solutions then selected D&D Concrete Construction (a certified WDBE) to replace CCP, which substitution was approved by the CCO.

On July 16, 2020, the Director of Transportation, under the SFMTA's contract delegation policy, approved Contract Modification No. 1 to the Contract to add a new allowance in the amount of \$220,000 to implement additional safe work practices due to the COVID-19 pandemic, for a new total contract amount of \$3,074,660, and no extension to the contract term.

## **STAKEHOLDER ENGAGEMENT**

The work at the Presidio facility is limited to work within the bus maintenance yard and does not directly impact transit service or the public right-of-way. Public outreach will focus on notifying residential and commercial neighbors adjacent to the facility of intermittent and temporary noise and dust impacts. Communication methods will include reaching out to the district supervisor's office, meeting with local neighborhood community groups, issuing information flyers to adjacent residences and businesses, and creating a Project website.

SFMTA Transit management and bus maintenance staff were consulted during the project design process and are supportive of the new bus lifts to improve worker safety and work efficiency.

## **ALTERNATIVES CONSIDERED**

The only alternative is to have the prime contractor self-perform the subcontracted work. But since the project requires a two percent certified WDBE participation goal that this alternative is not feasible. In addition, the new subcontractor, D&D Concrete Construction is a certified WDBE, and the substitution does not impact the contract terms or amounts. Therefore, the substitution of the subcontractor is the best option to move the project forward.

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## **FUNDING IMPACT**

The project budget and financial plan for this project is presented in Enclosure 2. The Project Budget and Financial Plan in Enclosure 2 has been updated since the Contract has been awarded on July 16, 2019.

The scope of this Contract Modification is for Subcontractor substitution only and does not impact the Contract amount or term.

## **ENVIRONMENTAL REVIEW**

The Presidio Trolley Coach Facility - Presidio Bus Lifts 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, including interior or exterior alterations.

On March 7, 2018, the Planning Department determined (Case Number 2018-002101ENV) that the proposed Presidio Trolley Coach Facility - Presidio Bus Lifts project is categorically exempt from CEQA as defined in Title 14 of the California Code of Regulations Section 15301.

The proposed Contract Modification is for subcontractor substitution only and all work remains within the scope of the 2018 Categorical Exemption.

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 City Attorney Office has reviewed this calendar item. The SFMTA's Contract Compliance Office has determined that the Contractor is in compliance with Small Business Enterprise requirements of the Contract.

No other approvals are required for this Modification.

## **RECOMMENDATION**

Staff recommends authorizing the Director of Transportation to execute Contract Modification No. 2 to SFMTA Contract No. 1247R, Presidio Trolley Coach Facility – Presidio Bus Lifts, with Makai Solutions, to substitute subcontractor Cal-Con Pumping, Inc. with D&D Concrete Construction, for no additional cost and no extension to the Contract term.

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

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

WHEREAS, San Francisco Municipal Transportation Agency (SFMTA) Contract No. 1247R, Presidio Trolley Coach Facility – Presidio Bus lifts, will replace and install new vehicle lifts, new overhead roll-up doors, and new security gates to improve worker safety and work efficiency; and,

WHEREAS, On July 16, 2019, the SFMTA Board adopted Resolution 190716-089, awarding Contract No. 1247R (the Contract) to Makai Solutions in the amount of \$2,854,660 for a term of 450 days; and,

WHEREAS, At the time of bid, Makai Solutions identified Cal-Con Pumping, Inc. (CCP), as a listed subcontractor to perform concrete work; CCP would meet the required 2% goal for Woman-Owned Disadvantaged Business Enterprise (WDBE) participation; and,

WHEREAS, After Contract No. 1247R was awarded, the SFMTA Contract Compliance Office (CCO) notified Makai Solutions that CCP no longer was certified as a WDBE; and,

WHEREAS; On April 14, 2020, Makai Solutions notified the SFMTA that it had been unable to contact CCP, and requested that the SFMTA approve a request to replace CCP with another WDBE-certified contractor, D&D Concrete Construction; and,

WHEREAS, On June 22, 2020, the SFMTA notified CCP about the requested substitution, offered CCP an opportunity to object, but CCP did not respond; and,

WHEREAS, On July 16, 2020, the Director of Transportation, under the SFMTA's contract delegation policy, approved Contract Modification No. 1 to the Contract to add an allowance in the amount of \$220,000 to implement additional safe work practices due to the COVID-19 pandemic, for a revised total Contract amount of \$3,074,660, and no extension to the Contract term; and,

WHEREAS, The Presidio Trolley Coach Facility - Presidio Bus Lifts 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 including interior or exterior alterations; and,

WHEREAS, On March 7, 2018, the Planning Department determined (Case Number 2018-002101ENV) that the proposed Presidio Trolley Coach Facility - Presidio Bus Lifts project is categorically exempt from CEQA as defined in Title 14 of the California Code of Regulations Section 15301. The proposed Contract Modification is for subcontractor substitution only and all work remains within the scope of the 2018 Categorical Exemption; and,

WHEREAS, 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; and,

WHEREAS, The SFMTA's Contract Compliance Office has determined that with the substitution of D&D Concrete Construction Makai Solutions is in compliance with the Small Business Enterprise requirements of the Contract and concurs with this recommendation; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to execute Contract Modification No. 2 to SFMTA Contract No. 1247R, Presidio Bus Lifts - Presidio Trolley Coach Facility – Presidio Bus Lifts, with Makai Solutions, to substitute subcontractor Cal-Con Pumping, Inc. with D&D Concrete Construction, for no additional cost and no extension to the Contract term.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of October 20, 2020.

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Roberta Boomer, Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency

ENCLOSURE 2

PRESIDIO TROLLEY COACH FACILITY – PRESIDIO BUS LIFTS

San Francisco Municipal Transportation Agency, Contract No. 1247R

Project Budget and Financial Plan

<b>Cost</b>	<b>Amount</b>
Preliminary Engineering Staff support (SFMTA and Other City Service)	\$387,746
Detail Design Phase Staff support (SFMTA and Other City Service)	\$1,739,103
Construction Phase Staff support (SFMTA and Other City Service)	\$5,198,761
<b>Total Cost</b>	<b>\$7,325,610</b>

<b>Funding Sources</b>	<b>Amount</b>
Proposition K	\$4,695,636
FTA 5307	\$1,032,519
SFMTA Operating	\$1,261,195
MTC AB664	\$336,260
<b>Total Committed</b>	<b>\$7,325,610</b>

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**CONTRACT MODIFICATION NO. 2**

**San Francisco Municipal Transportation Agency  
Contract No. 1247R  
Presidio Trolley Coach Facility - Presidio Bus Lifts  
Replacement**

**Contractor: Makai Solutions  
1653 W. El Segundo Blvd.  
Gardena, CA 90249**

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The Contract is modified as follows:

1. Subcontractor Substitution: Substitute Cal Con Pumping, Inc., a listed subcontractor, with D&D Concrete Construction. This substitution does not impact the Contract terms or amount.
2. This Modification is made in accordance with Article 6 and 7 of the Contract General Provisions.
3. Except as provided herein, all previous terms and conditions of the Contract remain unchanged.

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

**MAKAI SOLUTIONS**

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

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

*Signature*  
Dan Peterson  
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