

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION NO. 210302-030

WHEREAS, Design and construction of the 1.75-mile Central Subway (Central Subway Project) is Phase 2 of the Third Street Light Rail Transit Project; and,

WHEREAS, On May 21, 2013, the SFMTA Board of Directors awarded Contract No. 1300, Third Street Light Rail Program Phase 2 – Central Subway Stations, Surface, Track and Systems (Contract) to Tutor Perini Corporation (Contractor) to construct stations, trackways and systems for the Central Subway Project in an amount not to exceed \$839,676,400, for a term of 1700 calendar days, with a Substantial Completion date of February 10, 2018; and,

WHEREAS, The Project Substantial Completion date was previously extended to June 29, 2020, under Contract Modification 122, approved by the SFMTA Board on September 17, 2019; and,

WHEREAS, The SFMTA has issued over 1450 change orders to the Project, which has impacted the Contractor's costs and ability to complete the work within the Contract Time and Contract Amount; and,

WHEREAS, Contract Modification 137 will resolve over \$176 million of the Contractor and subcontractor claims for delay through March 31, 2021, incidental, support, overhead, interest, other indirect costs, and subcontractor claims for overhead, indirect costs and delay costs related to change orders through January 20, 2021 and,

WHEREAS, Under Contract Modification No. 137, except for certain express reserved claims, including the Contractor certified subcontractor claims and certain classes of construction costs related to Project delays, the Contractor releases all claims for further compensation related to the Project delay covered by the extension of Contract Time; and,

WHEREAS, Contract Modification No. 137 clarifies the work that the Contractor must complete to achieve Project Substantial Completion and for the SFMTA to commence operational (dynamic) train testing, and provides that the Contractor must complete all remaining work within 180 calendar days following Substantial Completion; and,

WHEREAS, Under Contract Modification No. 137, the Contractor will bring the Project to Substantial Completion on or before March 31, 2021 and to Final Completion on or before September 27, 2021; and,

WHEREAS, The Contractor's claims concerning direct costs (labor and materials) of unpaid change orders and claims for additional work will be paid or otherwise resolved separately; and,

WHEREAS, To facilitate the timely installation and testing of the radio communications system and of the Advanced Train Control System (ATCS), the Contractor shall provide scheduled access to the SFMTA's radio and ATCS vendors, and other technology vendors and consultants, to the Project's stations and tunnels; and

WHEREAS, Following the Contractors' completion of work to reach Project Substantial Completion, punch list work and final acceptance, and the SFMTA completion of systems testing and operations (dynamic) vehicle testing, revenue service is anticipated to commence no later than in the Summer of 2022; and,

WHEREAS, The SFMTA does not waive or otherwise compromise any contractual right or legal defense concerning the any provisions or protections provided by the Contract or applicable law; and,

WHEREAS, The Central Subway Final Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report (Central Subway SEIS/SEIR) evaluated the environmental impacts of the Central Subway Project, including construction of the subway stations; on August 7, 2008, the San Francisco Planning Commission certified the Final SEIR (Case No. 1996.281E); on August 19, 2008, the SFMTA Board of Directors approved Resolution 08-150 adopting Central Subway Project Alternative 3B as the Locally Preferred Alternative, the CEQA Findings, Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Plan; and,

WHEREAS, The modification to Contract 1300 described herein comes within the scope of the Central Subway SEIS/SEIR; and,

WHEREAS, The Central Subway SEIS/SEIR is on file with the SFMTA Board of Directors and may be found in the records of the Planning Department at <https://sfplanning.org/> and 49 South Van Ness Avenue, Suite 1400 in San Francisco, and is incorporated herein by reference; now therefore, be it

RESOLVED, That the SFMTA Board has reviewed and considered the Central Subway SEIS/SEIR and record as a whole, and finds that the Central Subway Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report is adequate for the Board's use as the decision-making body for the actions taken herein relative to construction of the Project, and incorporates the California Environmental Quality Act findings by this reference as though set forth in this Resolution; and be it

FURTHER RESOLVED, The SFMTA Board of Directors approves Contract Modification No. 137 to Contract No. 1300, Third Street Light Rail Program Phase 2 – Central Subway Stations, Surface, Track and Systems with Tutor Perini Corporation (Contractor) to clarify the work that the Contractor must complete for Substantial Completion to commence systems and train testing, compensate the Contractor and subcontractors' claims for delay through March 31, 2021, incidental and support costs, inefficiencies, overhead, interest, other indirect costs for claims arising through January 20, 2021, and compensate the Contractor for overhead and incidental costs from Substantial to Final Completion, which increases the Contract Amount by \$93,600,000 for an amount not to exceed \$1,090,298,587.32, and extends the Substantial Completion date to March 31, 2021 and the Final Completion date to September 27, 2021.

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

Caroline Celaya

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency