

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION NO. 201215-111

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 1300) to Tutor Perini Corporation (Tutor) to construct one street-level and three subway stations, trackways, and systems for the Central Subway Project; and,

WHEREAS, From November 5, 2013 to December 30, 2019 the SFMTA issued 671 change orders for additional work (Change Order Work), comprising of 286 Change Order Requests (CORs) Tutor submitted claiming compensation for additional work, and 385 Proposed Contract Changes (PCCs) issued by the SFMTA for additional work, related to differing site conditions and design changes directed by the City that Tutor has performed or will perform; and,

WHEREAS, The Change Order Work was necessary for the Project, but Tutor and the SFMTA did not agree on the fair and reasonable compensation to be paid for that additional work; and,

WHEREAS, The SFMTA issued initial payment of \$18,995,027.44 to Tutor for the Change Order Work under Contract Modification No. 125, which the SFMTA Board approved on February 18, 2020; and,

WHEREAS, Tutor claimed it was owed an additional \$39.1 million for the Change Order Work, staff negotiated and recommends payment of an additional \$29,848,736.56 to resolve all claims for direct costs and markup for the Change Order Work, and the amounts Tutor claimed, the Agency's estimated value, and the negotiated recommended settlement amounts for each change order are listed in Attachment 1 to Contract Modification No. 134; and,

WHEREAS, Tutor's claims for compensation for time delay, inefficiency, and other impacts related to the Change Order Work are not resolved by this Contract Modification No. 134, and the SFMTA and Tutor each reserve all rights and defenses concerning those claims; 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 California Environmental Quality Act (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 49 South Van Ness, 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 Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report (SEIS/SEIR) and record as a whole, and finds that the Central Subway SEIS/SEIR 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 (CEQA) findings by this reference as though set forth in this Resolution; and be it

FURTHER RESOLVED, That the SFMTA Board approves Contract Modification No. 134 to Contract No. 1300, Third Street Light Rail Program Phase 2 - Central Subway Stations, Surface, Track and Systems with Tutor Perini Corporation, to resolve contractor claims for direct costs and markup for additional work performed under 671 change orders in the amount of \$29,848,736.56, for a modified contract amount of \$976,721,753.32.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of December 15, 2020.

Caroline Celaya

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency