

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION NO. 201020-088

WHEREAS, The SFMTA contracted with Tutor Perini Corporation (Tutor) to construct the Central Subway Stations, Surface, Track and Systems under Contract No. 1300. Frontier-Kemper Constructors, Inc. (Frontier) is a subsidiary of and subcontractor to Tutor that excavated the Central Subway Chinatown Station; and,

WHEREAS, Frontier submitted seven certified claims that it valued at \$11,608,588 for uncompensated labor costs, delays, schedule impacts, and escalated equipment costs arising from additional work and effort required to excavate soils and rock. Frontier claimed that the additional work, costs, and effort was necessary due to unexpected geologic conditions. Tutor claimed an additional \$3,252,272 in costs incurred to support Frontier's work; and,

WHEREAS, The City Attorney engaged a forensic accountant to audit Contractor's and Frontier's records to confirm claimed costs and expenditures. The SFMTA engaged Edgar Lopez, former City Architect for S.F. Public Works, as a consultant to negotiate the Claims. The SFMTA also independently estimated the fair and reasonable costs of the additional work and effort, which informed the SFMTA's negotiations; and,

WHEREAS, The negotiated total value of this Contract Modification is \$10,382,106, of which \$7,435,059 will compensate Frontier for the Claims, and \$2,947,047 will compensate Tutor's support of that Additional Work; 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 49 South Van Ness in San Francisco, and is incorporated herein by reference; 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 CEQA findings by this reference as though set forth in this Resolution; and be it

RESOLVED, That the SFMTA Board of Directors approves Modification No. 133 to Contract No. 1300, Third Street Light Rail Program Phase 2 - Central Subway Stations, Surface, Track and Systems with Tutor Perini Corporation for the construction of Central Subway Stations, Trackway and Systems, to resolve claims from subcontractor Frontier-Kemper Constructors, Inc. arising from the excavation of the Chinatown Station in the amount of \$10,382,106.

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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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency