

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION No. 221213-119

WHEREAS, On April 17, 2018, the SFMTA Board of Directors adopted Resolution No. 180417-061, awarding Contract No. 1304, Muni Metro System King Substation Upgrade, to DMZ Builders, in the amount of \$11,398,450, and for a term of 365 days to substantial completion; and,

WHEREAS, The work under the Contract involves construction of a new King Substation to provide sufficient electrical power to meet increased demand from the Muni light rail vehicles serving Oracle Park, the Chase Center, and the Central Subway, and the installation of a temporary mobile substation to provide power while the new substation is constructed; and,

WHEREAS, In order to connect the new and temporary substations to PG&E's distribution facilities, the SFMTA had to install a new underground conduit across King, and had to bore under the light rail tracks to install the conduit, and this work was on the critical path of the project schedule; and,

WHEREAS, PG&E unexpectedly took the position that it would only allow the boring if the SFMTA completed a post-boring inspection video under PG&E's direction and indemnify PG&E for any damage resulting from the boring; and,

WHEREAS, It took ten months for PG&E to obtain the post-boring video and the requested indemnity agreement executed by the Director of Transportation after receiving authorization from the SFMTA Board (Resolution No. 190618-071); and,

WHEREAS, After its demands were met, PG&E took another full year to energize the mobile substation; and,

WHEREAS, The PG&E delays caused the contractor to incur significant additional direct and overhead costs, pushed contract performance into the pandemic period, and were followed by additional independent delays related to coordination with the Central Subway project and a worksite electrical fire; and,

WHEREAS, The combined delays extended the schedule for completion of the contract by a total of 3 years and 7 months beyond the original scheduled completion date; and,

WHEREAS, On March 26, 2020, the Director of Transportation executed Contract Modification No. 1 to compensate the Contractor for specific costs incurred relating to the field work suspension and additional required work in the amount of \$942,687, for a total Contract amount not to exceed \$12,341,137, with no extension of time; and,

WHEREAS, On July 12, 2020, the Director of Transportation executed Contract Modification No. 2, to provide an allowance for COVID-19 safety costs, increasing the Contract amount by \$118,000, for a total Contract amount not to exceed \$12,459,137, with no extension

of time; and,

WHEREAS, On April 20, 2021, the SFMTA Board of Directors adopted Resolution No. 210420-056 authorizing the Director of Transportation to execute Contract Modification No. 3, to compensate the Contractor for additional verified office overhead of \$363,829 resulting from suspension of contract field work due to the PG&E delay, for a total contract amount not to exceed \$12,822,966; and to extend the contract term by 360 days to a new substantial completion date of June 7, 2020; and,

WHEREAS, After an analysis of Contractor's submitted claims under the contract, and negotiations with the Contractor, an agreement was reached for a global settlement of all of Contractor's claims arising before September 30, 2022, for \$2,550,000, with a time extension of 950 days to establish a new substantial completion date of January 12, 2023; and,

WHEREAS, The King Substation Upgrade Project was included as part of the approved Golden State Warriors Event Center and Mixed-Use Project at Mission Bay Blocks 29-32, Muni UCSF/Mission Bay Station Final EIR project refinement, and on November 3, 2015, the San Francisco Commission on Community Investment and Infrastructure (CCII), the successor agency to the former Redevelopment Agency, reviewed and considered the Final Subsequent Environmental Impact Report for the Golden State Warriors Event Center and Mixed Use Project at Mission Bay Blocks 29-32 (Event Center Project Final Subsequent Environmental Impact Report [FSEIR]) and, by CCII Resolution No. 12 69-2015, certified the FSEIR in compliance with California Environmental Quality Act, and the CCII also approved the Event Center Project by the adoption of Resolutions No. 70-2015 (adopting CEQA Findings), No.71-2015 (approving amendments to the Mission Bay South Design for Development), and No.72-2015 (conditionally approving the Major Phase and Basic Concept/Schematic Design applications for the Project); and,

WHEREAS, As mentioned above, this Board adopted the Event Center Project's CEQA findings as applicable to the SFMTA on November 3, 2015 (Resolution No. 15-154); in Resolution No. 15-154, this Board approved various elements of the Transportation Service Plan and capital improvements for the Event Center Project, including augmenting the power supply; and,

WHEREAS, Modification No. 4 to Contract No. 1304, Muni Metro System King Substation Upgrade, falls within the scope of the Event Center Project FSEIR; and,

WHEREAS, A copy of the Event Center Project FSEIR is on file with the Secretary to 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; and,

RESOLVED, That the SFMTA Board of Directors adopts the Event Center Final Subsequent Environmental Impact Report California Environmental Quality Act Findings as its own, and to the extent the above actions are associated with any mitigation measures, the SFMTA Board of Directors adopts those measures as conditions of this approval; a copy of the

Planning Commission Resolutions, the CEQA findings, and the CEQA determinations are on file with the Secretary to 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 are incorporated herein by reference; and be it further

RESOLVED, That SFMTA Board of Directors authorizes the Director of Transportation to execute Modification No. 4 to Contract No. 1304, Muni Metro System King Substation Upgrade, with DMZ Builders to agree to a global settlement of Contractor's claims for delay, which were primarily caused by PG&E activity, extending the contract term by 950 days to January 12, 2023, and increasing the amount by \$2,550,000, for a total contract amount not to exceed \$15,372,966.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of December 13, 2022.



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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency