

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 190716-092

WHEREAS, The Van Ness Corridor Transit Improvement Project (formerly known as the Van Ness Bus Rapid Transit Project) (the Project) will implement the first BRT service in San Francisco, which will improve transit reliability for the 47 and 49 Muni routes and provide reliable transit connections to transfer routes; and,

WHEREAS, On July 7, 2015, the SFMTA Board of Directors adopted Resolution No. 15-108, awarding Contract No. 1289, Van Ness Corridor Transit Improvement Project (Contract), to Walsh Construction Company II, LLC (Walsh), in the amount of \$800,000, to provide pre-construction services for the Project; and,

WHEREAS, On August 16, 2016, the SFMTA Board of Directors adopted Resolution No. 16-110 authorizing Modification No. 1 to the Contract, in the amount of \$193,027,555, construction of the Project, for a total contract amount of \$193,827,555 and for an overall contract term not to exceed five years; and,

WHEREAS, On August 21, 2018, the SFMTA Board adopted Resolution No. 180821-115, approving Contract Modification No. 2 to the Contract for changes to the Overhead Contact System trolley/light poles and foundations, increasing the Contract amount by \$4,463,160.98, for a total contract amount not to exceed \$198,290,715.98, with no extension of time; and authorizing the Director of Transportation to approve up to an additional aggregate of \$10,000,000 in future amendments to Contract No. 1289 without further approval by the SFMTA Board of Directors; and,

WHEREAS, Contract Modifications 3 through 6, executed by the Director of Transportation, increased the contract amount by \$9,995,608.85, for a total contract amount not to exceed \$208,286,324.83, with no extension of time; and,

WHEREAS, Walsh submitted Claim No. 1 on July 18, 2017, seeking 179 compensable unavoidable delay days and \$4,311,477 in compensation for sewer and water design issues. On December 11, 2017, Walsh supplemented its claim—this time asking for 279 compensable days of delay and \$6,693,525 in compensation; Walsh submitted Claim No. 2 on November 9, 2017, in the amount of \$11,927,772, for additional compensation related to the amount of its sewer and water subcontract; and,

WHEREAS, As a result of negotiations between the SFMTA and the San Francisco Public Utilities Commission, representing the City, and Walsh, the parties agreed to a time extension of 135 compensable days and 144 non-compensable delay days, and additional compensation of \$4,819,650 for Claim No. 1; for Claim No.2, the Project team found no merit, and the Contractor agreed not to pursue that claim; and,

WHEREAS, On May 15, 2012, the SFMTA Board of Directors adopted Resolution No. 12-070, selecting the Center-running BRT with Right Side Boarding Platforms Single Median and Limited Left Turns as the Locally Preferred Alternative (LPA) for the Project to be analyzed in the Final EIS/EIR for the Project (Final EIS/EIR); under this alignment of the Project, BRT lanes would flank the center median except at stations where the BRT vehicles would transition to the center of the roadway and be protected by right side boarding platforms; this alignment would also eliminate all left turns from Van Ness Avenue between Mission and Lombard streets, with the exception of a two-lane left turn onto Broadway from southbound Van Ness, in order to gain the most transit travel time benefits; and,

WHEREAS, On September 10, 2013, the Transportation Authority, as lead agency under CEQA, certified the Final EIS/EIR under Resolution 14-18, adopted CEQA Findings and a Statement of Overriding Considerations, adopted the Mitigation Monitoring and Reporting Plan, and approved the Locally Preferred Alternative (LPA); the certification of the Final EIS/EIR included incorporating the Vallejo Northbound Station Variant into the Project; and,

WHEREAS, On September 17, 2013, the SFMTA Board of Directors, acting in the capacity as a responsible agency under CEQA, adopted Resolution No. 13-214, approving the Project, analyzed as the LPA in the Final EIS/EIR, including an amendment to include the Vallejo Northbound Station Variant in the approval of the LPA; as part of the resolution, the Board also adopted the CEQA Findings, a Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Plan for the Final EIS/EIR, and authorized the Director of Transportation to direct staff to continue with obtaining the necessary approvals to implement the Project; and,

WHEREAS, On December 20, 2013, the Federal Transit Administration issued a Record of Decision for the Project, determining that the requirements of the National Environmental Policy Act have been met through the Final EIS document and process; and,

WHEREAS, Since the adoption of the CEQA Findings and the approval of the Project, the Transportation Authority has prepared a memo to file dated July 15, 2014, titled "Van Ness Avenue Bus Rapid Transit Project – Environmental Compliance for the Proposed Parking Removal from Conceptual Engineering Report" (Memo to File), which concluded that the removal of 11 parking spaces more than assumed in the Van Ness BRT Project Final EIS/EIR, as proposed by SFMTA in the Conceptual Engineering Report, would not result in a new significant environmental impact due to parking loss; based on its review and consideration of the information contained in the Final EIS/EIR, the SFMTA Board found, on July 7, 2015, under Resolution No. 15-108, that the actions to remove parking spaces were within the scope of the Final EIS/EIR, and that no additional environmental review would be required under Public Resources Code section 21166; and,

WHEREAS, On March 4, 2016, the SFCTA issued an “Addendum to Environmental Impact Report” for the Project, which concluded that removal and replacement of various trees along the Van Ness corridor not previously identified in the Final EIS/EIR would not result in a new significant environmental impact; based on its review of the Addendum, the SFMTA Board found, on April 5, 2016, under Resolution No. 16-044, that actions to remove and replace trees, as outlined in the Addendum, were within the scope of the Final EIS/EIR and that no additional environmental review would be required under Public Resources Code section 21166; and,

WHEREAS, As mentioned above, on July 7, 2015, the SFMTA Board of Directors authorized the award of the Contract for Phase 1 pre-construction services to Walsh, having reviewed and considered the EIS/EIR and record as a whole and found that the Final EIS/EIR was adequate for its use as the decision-making body for the approval of the Contract; the Board also found that the actions being taken were within the scope of the EIS/EIR, incorporated the CEQA findings contained in its Resolution No. 13-214, including the Statement of Overriding Considerations, and further found that no additional environmental review would be required under Public Resources Code section 21166; and,

WHEREAS, Based on its review of the Final EIS/EIR, the SFMTA Board found, on August 16, 2016, under Resolution No. 16-110, that Amendment No. 1 to the Contract for Phase 2 construction services, was within the scope of the Final EIS/EIR; and,

WHEREAS, Based on its review of the Final EIS/EIR, the SFMTA Board found on August 21, 2018, under Resolution No. 180821-115, that Modification No. 2 to the Contract was within the scope of the Final EIS/EIR; and,

WHEREAS, A copy of the CEQA determinations are on file with the Secretary to the SFMTA Board of Directors and are incorporated herein by reference; now, therefore, be it

RESOLVED, That the SFMTA Board has reviewed and considered the Van Ness BRT Project Final EIS/EIR and record as a whole, finds that the Final EIS/EIR 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

FURTHER RESOLVED, That the SFMTA Board further finds that since the Final EIS/EIR was finalized, there have been no substantial Project changes and no substantial changes in Project circumstances that would require major revisions to the Final EIS/EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIS/EIR; and be it further

RESOLVED, That the SFMTA Board of Directors authorizes the Director of Transportation to execute Modification No. 7 to Contract No. 1289, Van Ness Corridor Transit Improvement Project, with Walsh Construction Company II, LLC, to resolve claims related to delays resulting from water and sewer work, by increasing the contract amount by \$4,819,650, for a total contract amount not to exceed \$213,105,974.83, and extending the time to substantial completion by 279 days.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of July 16, 2019.



Secretary to the Board of Directors
San Francisco Municipal Transportation Agency