

SAN FRANCISCO  
MUNICIPAL TRANSPORTATION AGENCY  
BOARD OF DIRECTORS

RESOLUTION NO. 210302-031

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

WHEREAS, The SFMTA has issued over 1400 change orders directing the Contractor to perform additional work required due to design changes to the Project and unexpected site conditions; and,

WHEREAS, Contract Modification 138 (also referenced as “Omnibus No. 2”) will compensate the Contractor and subcontractors \$53,000,000 for the direct costs of the additional work performed under change orders issued on or before February 15, 2021, and fully releases the SFMTA from further liability for any and all costs related to those change orders; and,

WHEREAS, The SFMTA has issued over 1450 change orders directing the Contractor to perform additional work required due to design changes to the Project and unexpected site conditions, and the Contractor claims that the large number of change orders has impacted its ability to complete the work within the awarded Contract Amount and Contract Time; and,

WHEREAS, The additional work covered by these change orders generally resulted from unexpected site conditions and City-directed design changes, including changes over the entire 1.75-mile alignment to key underground utilities routing and sizing of pipes and duct banks including for major trunk lines, a significant number of changes to details for station structures and finishes, and changes to and mechanical, electrical and plumbing routing and sizing changes; and,

WHEREAS, The SFMTA performed analysis of merit and verification of costs of the Work, which informed the Agency’s determination that the payment of \$53,000,000 for the additional work performed under change orders is justified, fair and reasonable; and,

WHEREAS, Contract Modification No. 138 contains a broad release of the Contractor and subcontractor claims arising on or before February 15, 2021, with very limited exception, which significantly reduces financial and legal risk to the SFMTA; 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 SFMTA's Contract Compliance Office has previously determined that the Contractor is complying with the Small Business Enterprise requirements of Contract 1300: 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 <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 Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report 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, That the SFMTA Board approves Contract Modification No. 138 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's and subcontractors' claims for compensation for additional work resulting from City-directed design changes and unexpected site conditions, which increases the contract amount \$53,000,000 for an amount not to exceed \$1,143,298,587.32, with no change to the term of the Contract.

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*  
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Secretary to the Board of Directors  
San Francisco Municipal Transportation Agency