Resolution retroactively approving Modification Nos. 3 and 4 to extend the contract and to increase the amount of the contract by $15,906 for a total amount not to exceed $328,376; and approving Modification No. 5 to extend the term of the contract for a total term of June 1, 2011, through December 31, 2021, between the Arts Commission, the Municipal Transportation Agency and Catherine Wagner LLC, to provide designs and consult on the fabrication and installation of artwork to be displayed in the Central Subway.

WHEREAS, The San Francisco Municipal Transportation Agency’s (SFMTA) Central Subway Project, which is Phase 2 of the Third Street Light Rail Project, is constructing a new subway line in San Francisco, which runs approximately 1.6 miles from 4th and Brannan Streets, north under Fourth Street to Stockton Street, and north under Stockton Street into Chinatown; and

WHEREAS, On June 1, 2011, the San Francisco Arts Commission and the SFMTA approved the Agreement between the City and the County of San Francisco and Catherine Wagner, LLC (Wagner Contract) to provide design and consultation services for the fabrication and installation of artwork for the Central Subway Yerba Buena Moscone Station (YBM); and

As awarded, the term of the Wagner Contract was for an amount not to exceed $312,470, and a term of seven years and seven months, from June 1, 2011 to December 31, 2018; and

WHEREAS, The Wagner Contract previously was amended four times: Contract Modification No. 1, dated July 3, 2012, corrected the identification of the Contractor as
Catherine Wagner LLC, instead of the person Catherine Wagner; Contract Modification No. 2, dated November 16, 2018, extended the term of the contract one year to December 31, 2019, due to delays to YBM construction; Contract Modification No. 3, dated January 13, 2020, further extended the term of the contract one year and six months, to June 29, 2021, due to delays with station construction; Contract Modification No. 4, dated September 23, 2020, increased the contract amount by $15,906 for re-fabrication of glass in order to conform to station as-built dimensions, for an amount not to exceed amount $328,376, and extended the term one year to June 29, 2022, due to delays to YBM construction; and

WHEREAS, Due to staff error, Contract Modification Nos. 3 and 4 exceeded the ten-year term limit imposed by Charter, Section 9.118(b); and

WHEREAS, Due to delay to the Central Subway Project construction, the term of the Wagner Contract must be further extended to December 31, 2021, so that Catherine Wagner will remain available to consult on the fabrication and the installation of their artwork in the Central Subway Stations; as so amended, the total term of the Wagner Contract would exceed the ten-year contract term limit set out in Charter, Section 9.118(b), and therefore requires the Board of Supervisors’ approval; and

WHEREAS, The San Francisco Civil Service Commission approved the Wagner Contract under Civil Service Commission Notice of Action for Contract No. 4062-10/11, dated January 3, 2011; and

WHEREAS, The SFMTA’s Contract Compliance Office has previously determined that due to the proprietary nature of the Wagner Contract, there are no subcontracting opportunities for Small Business Enterprises that contracts; 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 Planning Commission certified the Final SEIR (Case No. 1996.281E); on August 19, 2008, the SFMTA Board of Directors approved Resolution No. 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 of the Wagner Contract as described herein comes within the scope of the Central Subway SEIS/SEIR; and

WHEREAS, The Central Subway SEIS/SEIR on file with the Clerk of the Board of Supervisors in File No. 210544, which is hereby declared to be a part of this Resolution as if set forth fully herein; now therefore, be it

RESOLVED, That the Board of Supervisors 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 Board of Supervisors retroactively approves Contract Modification Nos. 3 and 4 and approves Contract Modification No. 5 to the Agreement between the City and the County of San Francisco and Catherine Wagner LLC (Wagner Contract) to provide design and consult on the fabrication and installation of artwork to be displayed in the Central Subway, for a total contract amount not to exceed amount $328,376, and to extend the term of that contract to December 31, 2021 to accord with modified Central Subway Project construction deadlines; and, be it
FURTHER RESOLVED, That the Board of Supervisors approves all actions and expenditures made by the SFMTA and the Arts Commission concerning the Wagner Contract; and, be it

FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of Transportation, in consultation with the City Attorney, to take such action as the Director deems necessary to effect the intent and purposes of this Resolution; and, be it

FURTHER RESOLVED, That within thirty (30) days of the contract being fully executed by all parties, the Arts Commission and the Municipal Transportation Agency shall provide the final contract modification to the Clerk of the Board for inclusion into the official file.
Resolution retroactively approving Modification Nos. 3 and 4 to extend the contract and to increase the amount of the contract by $15,906 for a total amount not to exceed $328,376; and approving Modification No. 5 to extend the term of the contract for a total term of June 1, 2011, through December 31, 2021, between the Arts Commission, the Municipal Transportation Agency and Catherine Wagner LLC, to provide designs and consult on the fabrication and installation of artwork to be displayed in the Central Subway.

June 03, 2021 Government Audit and Oversight Committee - RECOMMENDED

June 15, 2021 Board of Supervisors - ADOPTED
   Ayes: 10 - Chan, Haney, Mandelman, Mar, Peskin, Preston, Ronen, Safai, Stefani and Walton
   Excused: 1 - Melgar

File No. 210544

I hereby certify that the foregoing Resolution was ADOPTED on 6/15/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

London N. Breed
Mayor

6/25/2021
Date Approved