

1 [Contract Modification - Retroactive - White Light Inc. - Werner Klotz Public Art Inc. - Central
2 Subway Artwork - Term Extension]

3 **Resolution retroactively approving Contract Modification No. 4 to extend the term of**
4 **the contract for a total term of June 1, 2011, through December 31, 2021, with no**
5 **change to the contract amount of \$458,823 between the Arts Commission, Municipal**
6 **Transportation Agency, White Light Inc. and Werner Klotz Public Art Inc., to provide**
7 **designs and consult on the fabrication and installation of artwork to be displayed in the**
8 **Central Subway.**

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10 WHEREAS, The SFMTA's Central Subway Project, which is Phase 2 of the Third
11 Street Light Rail Project, is constructing a new subway line in San Francisco, which runs
12 approximately 1.6 miles from Fourth and Brannan Streets, north under Fourth Street to
13 Stockton Street, and north under Stockton Street into Chinatown; and

14 WHEREAS, On June 1, 2011, the San Francisco Arts Commission and the SFMTA
15 approved the Agreement between the City and the County of San Francisco and White Light
16 LLC and Werner Klotz to provide artwork for the Central Subway Project (White Light
17 Contract), which includes design and consultation on the fabrication and installation of the
18 artwork for Union Square Market Street Station (UMS) for an amount not to exceed \$374,900
19 and a term of seven years and seven months, from June 1, 2011, to December 31, 2018; and

20 WHEREAS, The White Light Contract has been amended three times: Contract
21 Modification No. 1, dated August 30, 2016, increased the contract amount \$60,723 for
22 additional engineering services and additional artwork renderings, for a total contract amount
23 not to exceed \$435,623; Contract Modification No. 2, dated November 29, 2018, extended the
24 term of the contract one year to December 31, 2019, due to delays to UMS construction;
25 Contract Modification No. 3, dated November 5, 2019, increased the contract amount \$23,200

1 for additional engineering services, for a total contract amount not to exceed \$458,823 and
2 extended the term of the contract one year and six months, to June 29, 2020, due to delays to
3 UMS construction; and

4 WHEREAS, Due to staff error, the term of the White Light Contract inadvertently
5 expired, which the parties did not intend, and by these approvals the San Francisco Board of
6 Supervisors affirms said contract continued in full force without interruption, and further
7 approves of all actions, expenditures and payments that the SFMTA has made to date in
8 furtherance of that contract; and

9 WHEREAS, Due to delay to the Central Subway Project construction, the term of the
10 White Light Contract must be further extended to December 31, 2021, so that White Light LLC
11 and Werner Klotz will remain available to consult on the fabrication and the installation of their
12 artwork in the Central Subway Stations; and

13 WHEREAS, Contract Modification No. 4 would retroactively extend the term of the
14 White Light Contract to December 31, 2021, to coordinate the installation of the artwork with
15 completion of the Central Subway Project construction; as amended, the total term of the
16 White Light Contact would exceed the ten-year contract term limit set out in Charter,
17 Section 9.118(b), and therefore requires the Board of Supervisors' approval; and

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

21 WHEREAS, The SFMTA's Contract Compliance Office has previously determined that
22 due to the proprietary nature of the White Light Contract, there are no subcontracting
23 opportunities for Small Business Enterprises that contract; and

24 WHEREAS, The Central Subway Final Supplemental Environmental Impact
25 Statement/Supplemental Environmental Impact Report (Central Subway SEIS/SEIR)

1 evaluated the environmental impacts of the Central Subway Project, including construction of
2 the subway stations; on August 7, 2008, the San Francisco Planning Commission certified the
3 Final SEIR (Case No. 1996.281E); on August 19, 2008, the SFMTA Board of Directors
4 approved Resolution 08-150 adopting Central Subway Project Alternative 3B as the Locally
5 Preferred Alternative, the California Environmental Quality Act (CEQA) Findings, Statement of
6 Overriding Considerations, and the Mitigation Monitoring and Reporting Plan; and

7 WHEREAS, The modification of the White Light Contract as described herein comes
8 within the scope of the Central Subway SEIS/SEIR; and

9 WHEREAS, The Central Subway SEIS/SEIR on file with the Clerk of the Board of
10 Supervisors in File No. 210547, which is hereby declared to be a part of this resolution as if
11 set forth fully herein; now, therefore, be it

12 RESOLVED, That the Board of Supervisors has reviewed and considered the Central
13 Subway Supplemental Environmental Impact Statement/Supplemental Environmental Impact
14 Report and record as a whole, and finds that the Central Subway Supplemental
15 Environmental Impact Statement/Supplemental Environmental Impact Report is adequate for
16 the Board's use as the decision-making body for the actions taken herein relative to
17 construction of the Project, and incorporates the California Environmental Quality Act findings
18 by this reference as though set forth in this Resolution; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors retroactively approves Contract
20 Modification No. 4 to the Agreement between the City and the County of San Francisco and
21 White Light Inc. and Werner Klotz Public Art Inc. (White Light Contract) to design and consult
22 on the fabrication and installation of artwork to be displayed in the Central Subway, to extend
23 the term of that contract to December 31, 2021, to accord with modified Project construction
24 deadlines, with no increase to the contract amount; and, be it

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1 FURTHER RESOLVED, That the Board of Supervisors approves all actions and
2 expenditures made by the SFMTA and the Arts Commission concerning the White Light
3 Contract; and, be it

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

8 FURTHER RESOLVED, That within 30 days of the Contract Modification being fully-
9 executed by all parties, the Director of Transportation and the Director of Cultural Affairs shall
10 provide the final Contract Modification to the Clerk of the Board for inclusion into the official
11 file.

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