

1 [Contract Modification - Retroactive - Catherine Wagner LLC - Central Subway Artwork - Term  
2 Extension - Not to Exceed \$328,376]

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

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

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

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

24 WHEREAS, The Wagner Contract previously was amended four times: Contract  
25 Modification No. 1, dated July 3, 2012, corrected the identification of the Contractor as

1 Catherine Wagner LLC, instead of the person Catherine Wagner; Contract Modification No. 2,  
2 dated November 16, 2018, extended the term of the contract one year to December 31, 2019,  
3 due to delays to YBM construction; Contract Modification No. 3, dated January 13, 2020,  
4 further extended the term of the contract one year and six months, to June 29, 2021, due to  
5 delays with station construction; Contract Modification No. 4, dated September 23, 2020,  
6 increased the contract amount by \$15,906 for re-fabrication of glass in order to conform to  
7 station as-built dimensions, for an amount not to exceed amount \$328,376, and extended the  
8 term one year to June 29, 2022, due to delays to YBM construction; and

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

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

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

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

23 WHEREAS, The Central Subway Final Supplemental Environmental Impact  
24 Statement/Supplemental Environmental Impact Report (Central Subway SEIS/SEIR)  
25 evaluated the environmental impacts of the Central Subway Project, including construction of

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

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

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

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

18 FURTHER RESOLVED, That the Board of Supervisors retroactively approves Contract  
19 Modification Nos. 3 and 4 and approves Contract Modification No. 5 to the Agreement  
20 between the City and the County of San Francisco and Catherine Wagner LLC (Wagner  
21 Contract) to provide design and consult on the fabrication and installation of artwork to be  
22 displayed in the Central Subway, for a total contract amount not to exceed amount \$328,376,  
23 and to extend the term of that contract to December 31, 2021 to accord with modified Central  
24 Subway Project construction deadlines; 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 Wagner Contract;  
3 and, be it

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

7           FURTHER RESOLVED, That within thirty (30) days of the contract being fully executed  
8 by all parties, the Arts Commission and the Municipal Transportation Agency shall provide the  
9 final contract modification to the Clerk of the Board for inclusion into the official file.

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