

1 [Contract Modification - Retroactive - Tomie Arai - Central Subway Artwork - Term Extension]

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3 **Resolution retroactively approving Modification No. 3 between the Arts Commission,**
4 **the Municipal Transportation Agency and Tomie Arai to extend the term of the contract**
5 **for one year for a total term of March 1, 2011, through December 31, 2021, with no**
6 **increase to the contract amount of \$290,500 to provide designs and consult on the**
7 **fabrication and installation of artwork to be displayed in the Central Subway.**

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

14 WHEREAS, On March 1, 2011, the San Francisco Arts Commission and the SFMTA
15 approved the Agreement between the City and the County of San Francisco and Tomie Arai
16 to provide artwork for the Central Subway Project (Arai Contract) to provide designs and
17 consult on the fabrication and installation of the artwork for Central Subway Chinatown Rose
18 Pak Station (CTS) for an amount not to exceed \$290,500 and a term of seven years and ten
19 months, from March 1, 2011, through December 31, 2018; and

20 WHEREAS, The Arai Contract has been previously amended twice: Contract
21 Modification No. 1, dated July 2, 2012, increased the contract amount \$60,500 for additional
22 scope of work due to changes to CTS design, for a total amount not to exceed \$351,000;
23 Contract Modification No. 2, dated March 21, 2019, extended the term of the contract two
24 years to December 31, 2020, due to additional delays to CTS construction; and

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

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

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

15 WHEREAS, The SFMTA's Contract Compliance Office has previously determined that
16 due to the proprietary nature of the Arai Contract, there are no subcontracting opportunities
17 for Small Business Enterprises those contracts; and

18 WHEREAS, The Central Subway Final Supplemental Environmental Impact
19 Statement/Supplemental Environmental Impact Report (Central Subway SEIS/SEIR)
20 evaluated the environmental impacts of the Central Subway Project, including construction of
21 the subway stations; on August 7, 2008, the Planning Commission certified the Final SEIR
22 (Case No. 1996.281E); on August 19, 2008, the SFMTA Board of Directors approved
23 Resolution No. 08-150 adopting Central Subway Project Alternative 3B as the Locally
24 Preferred Alternative, the California Environmental Quality Act (CEQA) Findings, Statement of
25 Overriding Considerations, and the Mitigation Monitoring and Reporting Plan; and

1 WHEREAS, The modification of the Arai Contract as described herein comes within the
2 scope of the Central Subway SEIS/SEIR; and

3 WHEREAS, The Central Subway SEIS/SEIR on file with the Clerk of the Board of
4 Supervisors in File No. 210546, which is hereby declared to be a part of this Resolution as if
5 set forth fully herein; now, therefore, be it

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

13 FURTHER RESOLVED, That the Board of Supervisors retroactively approves Contract
14 Modification No. 3 to the Agreement between the City and the County of San Francisco and
15 Tomie Arai (Arai Contract) to provide artwork for the Central Subway Project to design and
16 consult on the fabrication and installation of artwork to be displayed in the Central Subway, to
17 extend the term of that contract to December 31, 2021, to accord with Central Subway Project
18 construction deadlines, with no increase to the contract amount; and, be it

19 FURTHER RESOLVED, That the Board of Supervisors approves all actions and
20 expenditures made by the SFMTA and the Arts Commission concerning the Arai Contract;
21 and, be it

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

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

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