

A RESOLUTION

AUTHORIZING THE PRESIDENT AND CEO TO EXECUTE AND DELIVER A CONTRACT MODIFICATION WITH MCCARTHY BUILDING COMPANIES, INC. TO COMPENSATE CONTRACTOR FOR UNFORESEEN SITE CONDITIONS, ACCELERATION OF THE PROJECT SCHEDULE AND REALLOCATION OF INCENTIVES; AND MAKING FINDINGS AND PROVISIONS RELATED TO THE SUBJECT

WHEREAS, METRO has a contract for the construction of the Harrisburg Overpass Project ("Project") with McCarthy Building Companies, Inc.; and

WHEREAS, the Harrisburg Overpass Project has experienced delay due to unforeseen site conditions; and

WHEREAS, the approved budget amount for the contract to build the Harrisburg Overpass is \$30,668,030; and

WHEREAS, the Board of Directors authorizes the President & CEO to execute and deliver a contract modification to McCarthy Building Companies, Inc., for \$1,150,000, which includes \$1,000,000 to compensate the contractor for unforeseen site conditions; \$150,000 for acceleration to meet the June 12, 2016 milestone date for opening of the at-grade crossing; and reallocation of the contract incentives of \$10,000 per day, up to \$150,000 for completion of the at-grade crossing roadway prior to June 12, 2016; and reallocation of the contract incentives of \$10,000 per day, up to \$450,000 for substantial completion of the Project before September 12, 2016; and should McCarthy Building Companies, Inc. fail to meet the completion date milestones, it shall pay METRO \$10,000 per day as liquidated damages, from the assessment dates agreed by the parties until completion and acceptance of such milestone; and

WHEREAS, the Board of Directors has requested the President & CEO to report on the progress of the project on a weekly basis, monthly at the Capital & Strategic Planning Committee and to the full board at its regularly scheduled monthly board meetings, to immediately inform the Chairman of the Board and the Chair of the Capital & Strategic Planning committee if any critical path issues arise that could substantially delay the construction schedule; and

WHEREAS, the Board of Directors has requested that METRO's Chief Auditor audit the contract for issues related to the Project schedule and report those findings back to the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE METROPOLITAN TRANSIT AUTHORITY THAT:

Section 1. The Board of Directors hereby authorizes the President and CEO to execute and deliver a contract modification with McCarthy Building Companies, Inc., for \$1,150,000, which includes \$1,000,000 to compensate the contractor for unforeseen site conditions; \$150,000 for acceleration to meet the June 12, 2016 milestone date for opening of the at-grade crossing; and reallocation of the contract incentives of \$10,000 per day, up to \$150,000 for completion of

the at-grade crossing roadway prior to June 12, 2016; and reallocation of the contract incentives of \$10,000 per day, up to \$450,000 for substantial completion of the Project before September 12, 2016; and the assessment of liquidated damages in the amount of \$10,000 per day for McCarthy's failure to meet the completion date milestones.

Section 2. The President & CEO will report on the progress of the project on a weekly basis, monthly at the Capital & Strategic Planning Committee and to the full board at its regularly scheduled monthly board meetings, and immediately inform the Chairman of the Board and the Chair of the Capital & Strategic Planning committee if any critical path issues arise that could substantially delay the Project schedule.

Section 3. Board of Directors hereby authorizes METRO's Chief Auditor audit the contract for issues related to the Project schedule and report those findings back to the Board.

Section 4. This Resolution is effective immediately upon passage.

PASSED this 8th day of February, 2016
APPROVED this 8th day of February, 2016

ATTEST:



A handwritten signature in cursive script, appearing to read "G. Garcia".

Gilbert Andrew Garcia, CFA
Chairman