



# EXECUTIVE DECISION DOCUMENT

|   |  |  |                                      |  |  |
|---|--|--|--------------------------------------|--|--|
| <b>GENERAL MANAGER APPROVAL:</b>  |  | DocuSigned by:<br><i>Michael Jones</i><br>47000790F2D7463... | <b>GENERAL MANAGER ACTION REQ'D:</b> |  |  |
| <b>DATE:</b> 1/3/2025   |  | 1/16/2025  | <b>BOARD INITIATED ITEM:</b> No      |  |  |
| <b>Originator/Prepared by:</b> Chuck Bernardo<br><b>Dept:</b> PM/CM - CBTC Deployment | <b>General Counsel</b>   | <b>Controller/Treasurer</b>                                  | <b>District Secretary</b>            | <b>BARC</b>  |  |
| DocuSigned by:<br><i>Chuck Bernardo</i><br>240821408DF246E...                         | DocuSigned by:<br><i>Amelia Sandoval</i><br>2528C067C44147D... | Signed by:<br><i>Stephen Beach</i><br>7D9A7C6E7348456...     |                                      | DocuSigned by:<br><i>Shane Edwards</i><br>8128A2EB2F014F3... |  |
| <b>Signature/Date:</b><br>1/16/2025   | 1/16/2025 [ ]  | 1/16/2025 [ ]  | [ ]                                  | 1/16/2025 [ ]  |  |

## Contract 09AU-120 Earthquake Safety Program Transbay Tube Internal Retrofit Project, Change Order No. 263 Global Settlement

### PURPOSE:

To authorize the General Manager to execute close-out Change Order No. 263, Global Settlement, in an amount not to exceed \$2,250,000 to Contract 09AU-120, Transbay Tube (TBT) Internal Retrofit Project with Shimmick/California Engineering Contractors (CEC) Joint Venture to effectuate a total global settlement of \$8,800,000 for the delays, inefficiencies to the work due to differing site conditions, system disruptions to the work, additional labor, and all other outstanding request for additional compensation. The balance of the global settlement is funded by savings from not to exceed change orders completed under budget and unspent Bid Items.

### DISCUSSION:

The Board authorized Award of Contract No. 09AU-120, BART Earthquake Safety Program TBT Internal Retrofit to Shimmick/CEC Joint Venture, on December 1, 2016. Notice to Proceed was issued on February 2, 2017. The Contract called for the installation of elements to slow the rate of water intrusion into the TBT after an earthquake to allow sufficient time for passengers to safely exit to the surface. These elements include the installation of steel liner and plastic membrane in the bores and an upgrade to the existing pump system.

Over the course of construction, numerous differing site conditions were encountered that resulted in changes which altered the means and methods of the Contractor. These changes extended the total duration of the project and increased the number of shifts to complete the work. Change Order No. 263 would compensate the Contractor for overhead expenses associated with delays to Contract completion as well as labor, equipment rental and

materials associated with additional shifts to complete the changed work.

Pursuant to Board Rule 5-2.3, for Construction Contracts over \$200,000,000 in value, Change Orders involving expenditures greater than \$500,000 require Board approval. The Office of the General Counsel will approve this Change Order as to form prior to execution. The Procurement Department will review this Change Order for compliance with procurement guidelines prior to execution.

**FISCAL IMPACT:**

Funding of \$2,250,000 for the issuance of Change Order No. 263 to Contract No. 09AU-120 is included in the total budget for 09AU000 – TBT Retrofit #1 (Underwater). The table below lists funding assigned to the referenced project and is included to track funding history against spending authority. Funds needed to meet this request will be expended from the following sources:

| <b>Source</b> | <b>Fund Description</b>                          | <b>Amount</b>        |
|---------------|--|----------------------|
| Local         | 6820 SFCTA – 20SF02 Early Bird Project           | \$175,000            |
| BART          | 8530 – FY16 Operating Capital Allocation         | \$22,018             |
| BART          | 801F & 801J – ESP GO Bond                        | \$343,011,978        |
| BART          | ES GO Bond Interest Earnings                     | \$68,855,770         |
| BART          | 802A, 802B, 802C, 802D – 2017 Measure RR GO Bond | \$177,119,005        |
| BART          | 850V, 850W, 850X, 850Z – Capital Allocations     | \$299,110            |
|               | Total:   | <b>\$589,482,881</b> |

As of January 2, 2025, \$589,482,881 is the total budget for this project. BART has expended \$527,926,621, committed \$13,154,030, and reserved \$0 to date. This action will commit \$2,250,000 leaving an available fund balance of \$46,152,230.

The Office of Controller/Treasurer certifies that funds are currently available to meet this obligation. This action is not anticipated to have any fiscal impact on programmed District reserves.

**ALTERNATIVES:**

The Board can elect not to authorize the execution of this Change Order. If the Change Order is not executed, the Contractor may pursue a claim against the District for the full cost of the additional work and delays that they assert are attributable to the District. Such a claim

would likely result in a greater cost to the District.

**RECOMMENDATION:**

That the Board approve the following motion:

**MOTION:**

The General Manager is authorized to execute close out Change Order No. 263, Global Settlement, in an amount not to exceed \$2,250,000.