



## EXECUTIVE DECISION DOCUMENT

<b>GENERAL MANAGER APPROVAL:</b> <div style="border: 1px solid black; padding: 2px; display: inline-block;">             DocuSigned by:  <i>Michael Jones</i>  <small>47000790F2D7463...</small> </div>		<b>GENERAL MANAGER ACTION REQ'D:</b> Approve and Send to Board		
<b>DATE:</b> 10/18/2022      11/9/2022		<b>BOARD INITIATED ITEM:</b> No		
<b>Originator/Prepared by:</b> Linda Lee <b>Dept:</b> Strategic Engineering <div style="border: 1px solid black; padding: 2px; display: inline-block;">             DocuSigned by:  <i>Linda Lee</i>  <small>9FA454A5AF83469...</small> </div> <b>Signature/Date:</b> <div style="text-align: right;">11/4/2022</div>	<b>General Counsel</b> <div style="border: 1px solid black; padding: 2px; display: inline-block;">             DocuSigned by:  <i>Jana Belan</i>  <small>F8FD7B3A73E74E8...</small> </div> <div style="text-align: right;">11/4/2022 [ ]</div>	<b>Controller/Treasurer</b> <div style="border: 1px solid black; padding: 2px; display: inline-block;">             DocuSigned by:  <i>Chris Gan</i>  <small>EE11C8CEEEA04FD...</small> </div> <div style="text-align: right;">11/5/2022 [ ]</div>	<b>District Secretary</b> <div style="text-align: right;">[ ]</div>	<b>BARC</b> <div style="border: 1px solid black; padding: 2px; display: inline-block;">             DocuSigned by:  <i>Shane Edwards</i>  <small>8128A2EB2F014F3...</small> </div> <div style="text-align: right;">11/7/2022 [ ]</div>

### Authorize the General Manager to Execute Change Order to Contract No. 6M3388A, Ultrasonic Rail Flaw Detection Testing Services

**PURPOSE:** To obtain Board authorization for the General Manager to execute Change Order No. 3 to Agreement No. 6M3388A, Ultrasonic Rail Flaw Detection Testing Services, with Sperry Rail, Inc.(Sperry) in the amount of \$621,000.00 to exercise the Agreement's third option year.

#### DISCUSSION:

Agreement No. 6M3388A includes three (3) one (1) year options. In April 2019, the Board authorized the General Manager to award Agreement No. 6M3388A to Sperry Rail, Inc. for an amount not to exceed \$2,214,000.00 to provide Ultrasonic Rail Flaw Detection Testing Services of the District's running rail for a base term of two (2) years, and also authorized the General Manager to exercise two of the three one (1) year options. The Notice to Proceed was issued on July 9, 2019, and both authorized option years have been exercised extending the project completion date to July 8, 2023.

The California Public Utilities Commission (CPUC), District safety standards, and industry practice require the District to perform testing on the running rail twice per year. The Train Control Modernization Project (TCMP) requires an additional test increasing the total testing to three times per year. The District currently does not have the equipment to perform Ultrasonic Rail Flaw testing of its rails, as required by the CPUC and the TCMP. The District is procuring a Hi rail vehicle equipped with an ultrasonic rail measurement system, but it is not projected to arrive until July 2023, resulting in a need to exercise the third option year.

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Change Order No. 3 for \$621,000 is requested to authorize the third option year of the Agreement.

The amount of Change Order No. 3 is \$621,000:

Total Base Bid Amount	\$972,000.00
Change Order No. 1	\$621,000.00
Change Order No. 2	\$621,000.00
Proposed Change Order No. 3	\$621,000.00
Revised Contract Amount:	\$2,835,000.00

The Procurement Department will review this Change Order prior to execution for compliance with procurement guidelines. The Office of General Counsel will approve the Change Order as to form prior to execution.

### **CAPITAL FISCAL IMPACT:**

The total amount of \$621,000 for Change Order No. 3 to P.O. ID 6M3388A, will be funded from operating and capital projects.

#### **Operating Projects:**

M&E Department 802831, Account 681300 \$390,000

eBART Department 807260, Account 681300 \$36,000

Funding the above operating projects for FY23 has been requested in the proposed operating budget of Departments 802831 and 807200, subject to Board approval.

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves.

#### **Capital Project:**

PD&C- Funding Source - Project 49GH001 (TCMP) \$195,000

Funding in the amount of \$195,000 is included in the total project budget for FMS# 49GH001 – CBTC Non-Participating.

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 source:

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<b>Proposed Funding</b>	
F/G 8531 – FY17 Operating Allocation to Capital	\$2,210,244
F/G 8811 – Capital Interest Earned	\$35,000
<b>TOTAL</b>	<b>\$2,245,244</b>

As of October 4, 2022, \$2,245,244 is the total budget for this project. BART has expended \$1,045,209, committed \$503,779, and reserved \$0 to date. This action will commit \$195,000, leaving an available fund balance of \$501,256 in these fund sources for this project.

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 unprogrammed District reserves.

**ALTERNATIVE:** The Board may elect not to authorize the General Manager to execute this Change Order. Failure to authorize this Change Order will lead to non-compliance with CPUC and TCMP requirements and potential fines to the District.

**RECOMMENDATION:** Adopt the following motion:

**MOTION:** The General Manager is authorized to execute Change Order No. 3 for Agreement No. 6M3388A, Ultrasonic Rail Flaw Detection Testing Services with Sperry Rail, Inc., in the amount of \$621,000.