



**ITEM ID:** 2023-193-0

**TRANSMITTAL DATE:** June 16, 2023

**MEETING DATE:** June 23, 2023

**TO:** Board of Directors

**FROM:** Donald Filippi, Chief Operating Officer  
Arnold Hackett, Chief Financial Officer

**SUBJECT:** Contract No. MS289-22 - Track and Signal Infrastructure Maintenance and Support Services - FY2023-24 Annual Contract Authority and Increase in Contract Authority for On-Call Work Directives - Herzog Contracting Corporation

### **Issue**

Annual contract authority and continued on-call work directive project support on Contract No. MS289-22 are required to:

- Provide inspection, testing, reporting, maintenance for track, structures, signals, right-of-way, train control systems.
- Stay in compliance with Federal Railroad Administration (FRA), California Public Utilities Commission (CPUC) regulations and Authority standard.
- Support new capital, rehabilitation, and third-party reimbursable projects.

Annual contract authority for Base Maintenance services is requested every fiscal year. For on-call Work Directives, approximately \$6,405,125 remains in contract funding authorization and the amount of all on-call Work Directives currently planned to be issued over the next few months add up to \$7,651,121. With three years remaining on base period of the contract, the Authority will need to increase the contract authority for on-call Work Directives to continue to provide support for capital, State of good repair, third-party projects, and emergency response along the railroad right-of-way.

### **Recommendation**

CONTRACTS, OPERATIONS, MAINTENANCE, AND SAFETY COMMITTEE RECOMMENDED (5-0) the Board authorize the Chief Executive Officer to take the following actions for Contract No. MS289-22 with Herzog Contracting Corporation (Herzog):

1. Approve FY2023-24 contract authority for Base Maintenance services in a not-to-exceed amount of \$38,655,794.65; and
2. Increase contract authority for on-call Work Directives by \$57,270,996, from a current total of \$45,000,000 to a new not-to-exceed amount of \$102,270,996.

## **Strategic Commitment**

This report aligns with the Strategic Business Plan commitments of:

- **Safety is Foundational:** We will stay on the leading edge by deploying new technologies and processes to enhance the safety and security of our riders, our fellow employees, and the communities we serve. Contract MS289-22 ensures frequent and required inspection and maintenance of the Authority's track and signal infrastructure to ensure it is in a state of good repair. Best practice industry processes and technologies for the inspection, repair and associate support services has been adopted to ensure that the track and signal infrastructure allows trains to operate safely and efficiently as practical.
- **Modernizing Business Practices:** We will improve our operational efficiency through transparency, objective metrics and streamlined governance, reducing over-reliance on subsidy while bringing our system into a state of good repair and investing in the development of our employees. Operational efficiencies for both the Contractor as well as the Authority has been streamlined as a result of this bundled track and signal contract with enhanced controls and contract oversight.

## **Background**

On February 26, 2021, the Board awarded Contract No. MS289-22 – Track and Signal Infrastructure Maintenance and Support Services to Herzog Contracting Corp (Herzog) for a base period of five years (July 1, 2021, to June 30, 2026) with a single three-year option (July 1, 2026, to June 30, 2029, if exercised). This contract ensures the railroad infrastructure is inspected and maintained in accordance with FRA rules and regulations, California Public Utilities Commission (CPUC) requirements, and Authority standards. In addition, this contract also includes provisions to perform and support other project work through the on-call Work Directives to support capital, rehabilitation, third-party projects, as well as emergency response or other operational incidents occurring on the railroad right-of-way.

On June 25, 2021, the Board approved the contract funding authorization for the On-Call Work Directives for the five-year base term of the contract in an amount not-to-exceed \$45,000,000. Work Directives are funded via New Capital, State of good repair and third-party projects that could span multiple years and would only be authorized once funding is approved and available through their own budgetary constraints and controls that are outside of the Annual Operating Budget. Herzog will be authorized to work on such projects through the Work Directive process.

## **Discussion**

Herzog, under Base Maintenance services, performs track and signal infrastructure maintenance in a safe, reliable, affordable, efficient, customer-centric manner and in conformance with the Contract requirements. The Base Maintenance services include the inspection, testing, reporting, management, replacement and repairs of the track and signal infrastructure on the Authority’s maintained Service Property in accordance with the requirements of the Contract Scope of Services. The Contract specifies that Herzog shall submit an annual budget based on track and signal infrastructure maintenance criteria in response to a service plan provided by the Authority.

The proposed FY2023-24 operating budget (Attachment A) for Contract No. MS289-22 consists of:

<b>Base Maintenance of Way Services</b>	<b>Amount</b>
SCRRA property other than Arrow Service	\$37,276,895.15
Arrow Service	\$1,378,899.50
<b>Total</b>	<b>\$38,655,794.65</b>

For on-call Work Directives, the Board has previously authorized \$45,000,000. The Authority has already issued \$38,594,875 in on-call Work Directives (Attachment B) which leaves a balance of \$6,405,125 in authority. There are several on-call Work Directives that are being developed/negotiated, adding up to \$7,651,121 (Attachment C), which results in an authority deficit of \$1,245,996. With three years remaining in the base period of the Contract, Staff forecasts \$56,025,000 in on-call work directives to be issued until the end of the term (Attachment D). To support the existing Work Directive needs and future tasks for the remainder of the base period of the Contract, the Authority will need to increase the contract authority for on-call Work Directives by \$57,270,996.

**Budget Impact**

The amounts for which base maintenance annual contract authority is requested are included in, and are contingent upon, the adoption of the Proposed FY2023-24 Operating Budget (\$37,276,895.15) and the FY24 Arrow Budget (\$1,378,899.50). Funding for subsequent years will be requested through the annual budget or an equivalent process. There is no financial commitment with respect to subsequent years and work will be authorized only if funding is approved.

The amounts for which contract authority is requested for on-call Work Directives are included in the adopted and approved Capital and State of Good Repair Program Budgets for FY19-23. Funding for subsequent years or additional capital/rehabilitation projects will be requested through the annual budget or an equivalent process. There is no financial commitment with respect to subsequent years and work will be authorized only if funding is approved.

**Next Steps**

Upon approval of this request as well as adoption of the FY2023-24 Operating Budget, staff will issue a Notice to Proceed for the FY2023-24 service plan and for the approved annual authority under the provisions of this contract.

Prepared by: Tim Morehead, Director, Track & Signal Infrastructure Maintenance  
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Administrator  
Luis Carrasquero, Deputy Chief Operating Officer

Approved by: Donald Filippi, Chief Operating Officer

**Attachment(s)**

[Attachment A - FY24 Annual Contract Funding Authority for MS289-22 - Budget Attachment](#)  
[Attachment B - MS289-22 On-Call Work Directives Authorized to Date](#)  
[Attachment C - MS289-22 On-Call Work Directives In Development](#)  
[Attachment D - MS289-22 On-Call Work Directives 3-Year Forecast](#)  
[Presentation - FY2023-24 Annual Contract Funding Authorization - MS289-22](#)