

RESOLUTION NO. 2019-19

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
PHELAN PINON HILLS COMMUNITY SERVICES DISTRICT
APPROVING AWARD OF SOLE SOURCE CONTRACT
TO HIGH DESERT UNDERGROUND FOR
WATER PIPELINE EXTENSION TO SELF-SERVE APN 3066-261-10 & APN 3066-261-08
PHELAN COMMUNITY CENTER, PARK, AND DISTRICT OFFICE**

WHEREAS, the Phelan Pinon Hills Community Services District ("District") is a Community Services District organized and operating pursuant to California Government Code Section 61000 et seq.;

WHEREAS, the District is subject to Public Contracts Code Section 20682.5(b), which provides that "[a]ll contracts for the construction of completion of any building, structure, or improvement, when the cost exceeds ... \$25,000..., shall be contracted for and let to the lowest responsible bidder after notice";

WHEREAS, it is well-settled that exceptions to the competitive bidding requirement exist in the event that the specific facts and circumstances surrounding the particular work is such that the services sought for the proposed project are unique to a single contractor and the public agency must use such specialized services for efficient and effective completion thereof [see, e.g., Hiller v. City of Los Angeles (1962) 197 Cal. App. 2d 685, 17 Cal. Rptr. 579], or that engaging in the process would be undesirable or impracticable as a matter of public interest because a delay would result that would operate to undermine the public benefits to be gained by the proposed project [see, e.g., Graydon v. Pasadena Redevelopment Agency (1980) 104 Cal. App. 3d 631, 164 Cal. Rptr. 56];

WHEREAS, on March 19, 2014, the District's Board of Directors ("Board") adopted Resolution No. 2014-08, establishing purchasing policies and procedures for the District ("the Purchasing Policy") which set forth bidding and contract practices as part of the District's Rules and Regulations so as to provide guidance and direction to the District's staff in obtaining outside services for projects initiated by the District;

WHEREAS, Section 5 of the Purchasing Policy provides that the District must comply with the competitive bidding requirements of Public Contracts Code Section 20682.5 with respect to the construction of completion of any building, structure, or improvement when the cost exceeds \$25,000;

WHEREAS, pursuant to legally-recognized exceptions to competitive bidding requirements, Section 6(D)(4) of the Purchasing Policy provides that the District may procure services on a negotiated basis "when competitive bidding would fail to produce an advantage and/or when the advertisement for Competitive Bidding would be undesirable, impractical, or impossible";

WHEREAS, pursuant to legally recognized exceptions to competitive bidding requirements, Section 6(D)(3) of the Purchasing Policy also provides that the District may

procure services on a negotiated basis for any project in which a "Sole Source Contractor" has been designated;

WHEREAS, for purposes of Section 6(D)(3) of the Purchasing Policy, the term "Sole Source Contractor" is defined in Section 2(O) thereof as "a contractor or consultant that has been evaluated to provide unique or specialized Services or Supplies that cannot be obtained from other contractors or consultants," which designation must be approved by the Board;

WHEREAS, the facts and circumstances of the proposed installation of approximately 2,215 lineal feet of twelve-inch pipeline in the existing public right-of-way along Sheep Creek Road from just south of Nielson Road to Cambria Road and approximately 740 lineal feet of eight-inch pipeline in the existing public right-of-way along Warbler Road from Sheep Creek Road east to Sahara Road to serve District's property: Phelan Community and Senior Center, District's Office, Phelan Park (current and future), and future Civic Center ("Water Pipeline Extension to Self-Serve APN 3066-261-10 & APN 3066-261-08"), as described in the staff report attached hereto and incorporated herein ("the Staff Report"), supports a determination by the District's Board of Directors that imposing a formal competitive bidding requirement for the construction of the proposed Water Pipeline Extension to Self-Serve APN 3066-261-10 & APN 3066-261-08 would be undesirable or impracticable because the process could not be satisfactorily completed during Snowline Joint Unified School District's winter break, the longest school break prior to the beginning of summer when water demands within the District are the most extreme, which demands would potentially be met or mitigated by installation and operation of the proposed Water Pipeline Extension to Self-Serve APN 3066-261-10 & APN 3066-261-08; and

WHEREAS, as further described in the Staff Report, High Desert Underground possesses unique background and knowledge of the District's water supply system and existing infrastructure that would be impacted and utilized in connection with the proposed Water Pipeline Extension to Self-Serve APN 3066-261-10 & APN 3066-261-08, and High Desert Underground has performed all prior pipeline installation and repair services for the District in a timely manner and with high-quality workmanship that has been accepted by both the District and other local governmental agencies possessing regulatory oversight.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Phelan Pinon Hills Community Services District that, based upon the unique facts and circumstances described in the Staff Report and other evidence presented to the Board, the Board hereby finds and determines that expedited construction of the Water Pipeline Extension to Self-Serve APN 3066-261-10 & APN 3066-261-08 is exempt from any otherwise-applicable formal competitive bidding requirement pursuant to Section 6(D)(4) of the Purchasing Policy because compliance therewith would be undesirable and impracticable as a matter of public interest since engaging in the process would cause a delay that would result in the Water Pipeline Extension to Self-Serve APN 3066-261-10 & APN 3066-261-08 not achieving satisfactory completion prior to the heavy water demands of the upcoming summer months.

BE IT FURTHER RESOLVED by the Board of Directors of Phelan Pinon Hills Community Services District that the Board hereby finds and determines that High Desert Underground be designated as a sole source contractor for the Water Pipeline Extension to Self-Serve APN 3066-261-10 & APN 3066-261-08 pursuant to Section 6(D)(3) of the Purchasing Policy. The Board

reserves the right to withdraw this designation in its entirety, or to suspend this designation on a project-by-project basis, in the exercise of its sole discretion.

BE IT FURTHER RESOLVED that the District's Board of Directors hereby approves construction of the Water Pipeline Extension to Self-Serve APN 3066-261-10 & APN 3066-261-08, and authorizes the award of a contract for the construction thereof to High Desert Underground for a price not to exceed **\$412,434** (\$374,940 + \$37,494 (10% Contingency)), based upon the recommendations of the District's General Manager in the Staff Report, as well as the oral and written statements presented to, and considered by, the District's Board of Directors prior to adoption of this Resolution.

ADOPTED this 11th day of December, 2019.

AYES: Hoffman, Johnson, Kujawa, Philips, Roberts

NOES:

ABSTAIN:

ABSENT:



President, Board of Directors

ATTEST:



Secretary, Board of Directors