



EXECUTIVE DECISION DOCUMENT

GENERAL MANAGER APPROVAL: <i>Phil M. Pomeroy</i> 17 April 2019		GENERAL MANAGER ACTION REQ'D:		
DATE: 3/4/2019		BOARD INITIATED ITEM: No		
Originator/Prepared by: Greg Tedesco Dept: Office of the CIO <i>Greg Tedesco</i> Signature/Date: 4/15/19	General Counsel <i>Jim B...</i> 4/17/19 []	Controller/Treasurer <i>John White</i> 4/17/19 []	District Secretary []	BARC <i>[Signature]</i> 4.16.2019 []

Emergency Restoration, Preventative Maintenance, Non-Emergency Repair and Seismic Relocation Work of Commercial Fiber Optic and Wireless Networks

PURPOSE:

To authorize the General Manager to award Contract No. 6M4549 for the Emergency Restoration, Preventative Maintenance, Non-Emergency Repair and Seismic Relocation Work of Commercial Fiber Optic and Wireless Networks to Phase 3 Communications, Inc.

DISCUSSION:

This contract provides emergency restoration services and maintenance services for the Commercial Communications Revenue Program (formerly known as the Commercial Telecommunication Revenue Program). Since 1994, the District contracted for emergency restoration services; these contracts provide emergency repair of commercial fiber optic cables and wireless network infrastructure. The District provides these cables and infrastructure are to commercial, educational and governmental entities under licensing agreements. Maintaining these facilities requires repairs to bring the fiber cables and network infrastructure to a sustainable level. Thereafter, continuing maintenance of the fiber and wireless infrastructure is provided as needed. The District's commercial fiber and wireless license contracts generate approximately \$7.8M of revenue annually and the District's license agreements specify that the District will provide certain maintenance services.

Pursuant to the District's Non-Discrimination Program for Subcontracting, the Availability Percentages for this Contract are 18.2% for Minority Business Enterprises (MBEs) and 9.3% for Women Business Enterprises (WBEs). Phase 3 Communications will not be subcontracting any portion of the Work and therefore, the provisions of the District's Non-

Discrimination Program for Subcontracting do not apply.

Pursuant to the District's Non-Federal Small Business Program, the Office of Civil Rights set a 5% Small Business Prime Preference for this Contract for Small Businesses certified by the California Department of General Services. The lowest responsive Bidder, Phase 3 Communication is not a certified Small Business and, therefore, is not eligible for the 5% Small Business Prime Preference.

The District sent out 85 Advance Notices to Bidders on December 5, 2018 for this two-step Contract Book. The Contract Book contains security sensitive information (SSI). The Contract was advertised in 3 publications on December 3, 2018. As an SSI Contract it was not posted to the BART Procurement Portal. Potential Bidders purchased the Contract Books from the office of the District Secretary. A Pre-Proposal Meeting was conducted on December 18, 2018, with 6 potential Proposers in attendance. A total of 4 firms purchased copies of the Contract Book. Two Bids were received on Tuesday, January 15, 2019.

The Qualification Bid Evaluation Committee met on January 17, 2019 to review the technical qualification Bids received from the 2 Bidders to determine if they met the Minimum Technical Requirements, as outlined in in the Contract Book Instructions to Bidders, Paragraph 19. After a thorough review of all Bids received, including review of information received from both Bidders in response to request for cure of deficiency letters sent to both Bidders on February 6, 2019, the Committee determined that only the technical qualification bid received from Phase 3 met all of the Minimum Technical Requirements.

Number	Bidder	Location	Total Bid
1	Phase 3 Communications Inc.	San Jose, CA.	\$1,561,814
	Engineer's Estimate		\$1,861,352

FISCAL IMPACT:

Total funding required for Program Contract No. 6M4549 for FY20-FY22 is **\$1,561,814.00**. The annual amount of **\$520,604.66** is included in the Office of the Chief Information Officer's (OCIO) proposed annual operating budget, which is subject to Board approval.

Funds will be budgeted in the Office of the Chief Information Officer operating budget (0802842 - Telecommunications Program, 680230 – Repairs and Maintenance) as follows:

Proposed Funding	
FY20*	\$520,604.66
FY21	\$520,604.66
FY22	\$520,604.66
Total	\$1,561,814
<i>*Funding is expected to begin 7/1/2019.</i>	

This action is not anticipated to have any Fiscal Impact on unprogrammed District reserves in the current Fiscal Year.

ALTERNATIVES:

To not award this contract or to rebid it. This action could prevent the District from continuously maintaining the commercial fiber optic and wireless network as required in its license agreements with commercial carriers, thereby subjecting the District to potential legal liability.

RECOMMENDATION:

Adoption of the following motion.

MOTION:

The General Manager is authorized to award Contract No. 6M4549 for the Emergency Restoration, Preventative Maintenance, Non-Emergency Repair and Seismic Relocation Work of Commercial Fiber Optic and Wireless Networks for the Base Bid amount of \$1,561,814.00 to Phase 3 Communications Inc., pursuant to notification to be issued by the General Manager.

The General Manager is authorized to exercise a total Bid Price of \$1,561,814.00