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April 26, 2021

Board of Directors
Triunfo Water & Sanitation District
Ventura County, California

CONTRACT WITH SEARLE CREATIVE GROUP FOR PUBLIC RELATIONS SERVICES – TWSD CONTRACT NO. T21-001

Summary

Within an organization such as Triunfo Water & Sanitation District (TWSD), public relations (PR) are typically provided by a Public Information Officer (PIO). In TWSD's case, that role to date has been filled by staff from Ventura Regional Sanitation District (VRSD). With TWSD transitioning administrative services away from VRSD, TWSD is in need of a position/firm to provide PR support for website management, media relations, customer communication, public education, and social media management. Your Board requested that these services be provided by a professional outside PR firm in order to assist staff with a variety of related issues. At the Board's direction, staff recently completed a Request for Qualification (RFQ) process. Staff distributed an RFQ to eight regional firms and posted it on the TWSD website. The District received four submissions for consideration from the following firms (listed alphabetically):

- 1) Consortium Media
- 2) Searle Creative Group
- 3) Stacy Miller Public Affairs, Inc.
- 4) Whisenhunt Communications

Staff performed a comprehensive evaluation of the Statements of Qualifications and subsequently scheduled interviews with representatives of all four firms. Director Orkney, General Manager Mark Norris, and VRSD Management Analyst (and current PIO) Sandy Warren conducted the interviews. It is the unanimous recommendation of the interview panel that Searle Creative Group be awarded the public relations services contract for an initial term ending June 30, 2022, for an amount not to exceed \$50,000.

TWSD Legal Counsel has drafted the respective contract and has approved it as to form and content.

Please contact me at 805-658-4621 or email marknorris@trunfowsd.com if you have any questions or need additional information.

Fiscal Impact

This \$50,000 contract was not included in the Adopted Budget for FY2020-2021 and will require a budget increase. However, it was included in the transition cost analysis and is part of the administrative personnel funds currently in the budget.

Recommendation

It is recommended that the Board:

- A. Authorize the Chair to sign TWSD Contract No. T21-001 with Searle Creative Group to provide public relations services for an amount not to exceed \$50,000 and with a term through June 30, 2022; and
- B. Approve the Director of Finance to increase the FY2020-2021 Adopted Budget to fund the contract; or
- C. Provide staff with alternative direction.

REVIEWED AND APPROVED: _____
Mark Norris - General Manager

Attachments: 1) TWSD Contract No. T21-001
2) RFQ packets on file with the Clerk of the Board

CONTRACT NO. T21-001

**AGREEMENT FOR CONSULTING SERVICES
BETWEEN
TRIUNFO WATER & SANITATION DISTRICT
AND
SEARLE CREATIVE GROUP LLC
FOR PUBLIC RELATONS SERVICES**

THIS AGREEMENT is made and entered into this 26th day of April 2021, by and between the TRIUNFO WATER & SANITATION DISTRICT, a public agency formed pursuant to California Health & Safety Code Section 4700 et seq., hereinafter "DISTRICT," and Searle Creative Group LLC, a California company, hereinafter "CONSULTANT." Together, DISTRICT and CONSULTANT shall be referred to herein as Parties.

RECITALS

A. DISTRICT has the need to engage the specialized services of a consultant to provide public relations services.

B. DISTRICT has selected CONSULTANT, as most qualified, based on CONSULTANT's response to the DISTRICT'S Request for Qualifications. The responses were evaluated on criteria that included the firm's experience, the qualifications of the project team and their knowledge and experience working with local public agencies and water/wastewater services agencies.

C. CONSULTANT represents it possesses the necessary skills and experience to perform the required services and is willing to contract with DISTRICT.

D. The parties enter into this Agreement to set forth their respective rights and obligations.

AGREEMENT

ARTICLE 1: WORK STATEMENT

A. CONSULTANT shall complete DISTRICT public relations services as requested during the term of this Agreement.

B. CONSULTANT representative shall be Kellie Meehan, Owner and CEO. In the event Ms. Meehan becomes unavailable, CONSULTANT shall immediately designate another representative satisfactory to DISTRICT. CONSULTANT shall use its best efforts in providing services to DISTRICT and shall cooperate with DISTRICT and provide DISTRICT with all available information and assistance in relation to the projects.

C. The Scope of Services to be provided by CONSULTANT is included in Attachment A. DISTRICT and CONSULTANT shall discuss projects and tasks prior to commencing work under this Agreement.

ARTICLE 2: TERM OF CONTRACT

The term of this Agreement shall be from May 1, 2021 to June 30, 2022. This Agreement may be extended for additional one-year periods to a total of three at District's sole option upon acceptance of the current terms, conditions, and price.

ARTICLE 3: INDEPENDENT CONTRACTOR RELATIONSHIP

A. It is expressly understood between the parties that no employee/employer relationship is intended, the relationship of CONSULTANT to DISTRICT being that of an independent contractor. DISTRICT shall not be required to make any payroll deductions or provide Workers' Compensation Insurance coverage or health benefits to CONSULTANT.

B. CONSULTANT is solely responsible for selecting the means, methods, and procedures for performing its services hereunder as assigned by DISTRICT and for coordinating all portions of the work so the results will be satisfactory to DISTRICT, but shall not be responsible for the means, methods, and procedures of other consultants. CONSULTANT will supply all tools and instrumentalities required to perform its services under this Agreement.

C. CONSULTANT, pursuant to this Agreement, is rendering professional services only and any payments made to it are compensation solely for such services as it may render and recommendations it may make in the performance of services.

ARTICLE 4: COMPLIANCE WITH LAWS

CONSULTANT shall be solely responsible for giving all notices and complying with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority relating to CONSULTANT's work, the safety of the persons or property involved, and their protection from damage or injury. CONSULTANT shall defend, indemnify, and hold DISTRICT harmless from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description, including attorneys' fees and costs, brought or recovered against DISTRICT, for or on account of any grossly negligent violation of said laws, ordinances, rules, regulations, and orders in connection with work performed by CONSULTANT under this Agreement.

ARTICLE 5: CONFIDENTIAL RELATIONSHIP/TITLE TO DOCUMENTS

CONSULTANT agrees that all dealings of the parties under this Agreement shall be confidential and no report, data, information, or communication developed, prepared, or assembled by CONSULTANT under this Agreement, or any information made available to CONSULTANT by DISTRICT, shall be revealed, disseminated, or made available by CONSULTANT to any person or entity other than DISTRICT without the prior written consent of DISTRICT. All data, calculations, drawings, and other documents developed, prepared, completed, or acquired by CONSULTANT during the performance of its services hereunder shall be turned over to DISTRICT upon termination of this Agreement.

ARTICLE 6: PAYMENT TO CONSULTANT

A. In consideration of CONSULTANT's performance of services as described herein, DISTRICT shall pay CONSULTANT fees for its services at the rates specified in Attachment B plus any reasonable expenses. On or prior to the tenth (10th) day of each calendar month after actual work is started, CONSULTANT shall submit an invoice in sufficient detail to show the total amount of work done and materials furnished by CONSULTANT and incorporated into the work to the last day of the month

preceding the one in which the invoice is submitted. Such invoice shall include the name and title of each person performing work, date and brief description of the work performed, number and type of hours worked, and labor rate. DISTRICT shall review and approve CONSULTANT's invoice for accuracy and agree with CONSULTANT on any adjustments that may be appropriate. Such approvals shall not be unreasonably withheld. DISTRICT shall pay CONSULTANT for all approved work and materials within thirty (30) days of agreement on the amount of the invoice. In the event of disagreement with CONSULTANT on adjustments or disallowances, said amounts and disputes shall be withheld until resolved. Upon resolution of the disagreements, payment of the approved amount shall be made within thirty (30) days after deducting therefrom all previous payments and all sums to be retained under the terms of the agreement.

B. Total fees to be paid by DISTRICT to CONSULTANT for CONSULTANT's services described herein shall not exceed \$50,000. Additional services requested outside the scope of this Agreement would require written amendment hereto.

C. No payment made under this Agreement, except the final payment, shall be conclusive evidence of CONSULTANT's performance of the Agreement, either wholly or in part, and no payment shall be construed to be an acceptance of CONSULTANT's services performed. DISTRICT shall provide CONSULTANT with written documentation of completion of work along with final payment.

ARTICLE 7: MODIFICATION

No change to CONSULTANT billing rate or the contract amount, or to any other provision of this Agreement, may be made except by a written amendment signed by CONSULTANT and DISTRICT. DISTRICT General Manager or his designee shall be authorized to approve changes to this Agreement in a manner consistent with the provisions of District Resolution No. 89-13. Each amendment for additional services shall not exceed ten (10) percent or \$10,000, and the aggregate total of the original contract and all amendments shall not exceed \$25,000 without Board approval.

ARTICLE 8: SUSPENSION OR TERMINATION OF CONTRACT

All work shall be done in a diligent and professional manner to DISTRICT's satisfaction. CONSULTANT specifically acknowledges and agrees that DISTRICT may suspend or terminate CONSULTANT's services at any time with or without cause, regardless of whether Consultant's services are completed. Any termination or any special instructions hereunder from DISTRICT shall be made in writing. In the event of such termination or suspension exceeding three (3) months, CONSULTANT shall have the right to expend additional time to assemble the work in progress for the particular section of work for the purpose of proper filing and closing the job. Such additional time shall not exceed ten (10) percent of the total time expended on the section or sections of work suspended at and to the date of the notice of suspension or termination, and shall not increase CONSULTANT's total compensation beyond the maximum stated in Article 6.

In the event suspension of services exceeds twelve (12) months in duration, CONSULTANT may, by not less than thirty (30) days' written notice, terminate the services as they apply to the suspended portion of the project. In the event this Agreement is terminated by either DISTRICT or CONSULTANT, all reports, specifications and appurtenant data shall be delivered by CONSULTANT to DISTRICT and may be used by DISTRICT.

ARTICLE 9: INDEMNIFICATION AND HOLD HARMLESS

CONSULTANT agrees to defend, indemnify, and hold harmless DISTRICT and its officers, agents,

and employees, from and against any and all liability, damages, costs, losses, claims, and expenses, however caused, resulting directly or indirectly from or connected with CONSULTANT's negligent performance of this Agreement (including, but not limited to, such liability, cost, damage, loss, claim, or expense arising from the death of or injury to, or damage to property of CONSULTANT, DISTRICT, or their respective employees or agents), except to the extent that such liability, damages, costs, losses, claims, or expenses are caused by the negligent or wrongful acts or omissions of DISTRICT or any of its agents or employees.

ARTICLE 10: INSURANCE

CONSULTANT shall provide and keep in effect during the term of this Agreement insurance as follows:

- A. Workers' Compensation and Employer's Liability in accordance with applicable laws.
- B. Comprehensive Commercial Liability policies with combined single limit coverage of not less than \$1,000,000 for any personal injury, death, or property damage.
- C. Comprehensive Automobile Liability policies with combined single limit coverage of not less than \$1,000,000 for personal injury, death, or property damage.
- D. Errors and Omissions coverage with minimum limits of \$1,000,000 in full force and effect during the life of this contract.

CONSULTANT shall provide certificates of such insurance to DISTRICT prior to the start of work. Said certificates shall specifically provide that: (1) DISTRICT is an additional insured for the coverage in Items B and C above; (2) any other insurance coverage applicable to the loss shall be deemed excess coverage and CONSULTANT's insurance shall be primary for the coverage in Items B and C above; (3) in the event of CONSULTANT's error or omission, CONSULTANT's insurance shall respond for the coverage in Item D above; and (4) such insurance shall not be terminated or canceled without thirty (30) days' prior written notice having been given DISTRICT at its address set forth in this Agreement, except that ten (10) days' written notice shall be acceptable in the case of cancellation for nonpayment.

ARTICLE 11: SUBCONTRACTORS

This Agreement is a personal service contract, and the consulting work hereunder shall not be delegated or assigned by CONSULTANT to any person or entity without the consent of DISTRICT. Breach of this provision shall be grounds for immediate termination of this Agreement.

ARTICLE 12: AUTHORITY TO EXECUTE CONTRACT

Both DISTRICT and CONSULTANT do covenant that each individual executing this Agreement is a person duly authorized and empowered to execute Agreements for such party.

ARTICLE 13: DISPUTE RESOLUTION

In the event that CONSULTANT and DISTRICT have a dispute concerning the payment of sums pursuant to their Contract, the parties agree to be governed by Public Contracts Code Section 20104 et seq. In the event of such dispute, CONSULTANT shall file a written claim with DISTRICT. DISTRICT shall respond in writing within forty-five (45) days, or, within thirty (30) days request additional documentation and respond within fifteen (15) days after said request.

ARTICLE 14: NOTICES

All notices or other official correspondence relating to contractual matters between the parties shall be made by depositing the same as first-class, postage-paid mail addressed as follows:

To CONSULTANT: KELLIE MEEHAN, Owner & CEO
Searle Creative Group LLC
1802 Eastman Avenue, Suite 111
Ventura, CA 93003

To DISTRICT: FINANCE & ADMINISTRATION
Triunfo Water & Sanitation District
1001 Partridge Drive, Suite 150
Ventura, CA 93003-0704

With a copy to: ARNOLD LAROCHELLE MATHEWS VANCONAS & ZIRBEL LLP
300 E. Esplanade Drive, Suite 2100
Oxnard, CA 93036

or to such other address as either party may designate hereinafter in writing delivered to the other party. All notices shall be deemed to have been received three (3) days after mailing.

ARTICLE 15: NO WAIVER

No failure or delay by DISTRICT in asserting any of DISTRICT's rights and remedies as to any default of CONSULTANT shall operate as a waiver of the default, of any subsequent or other default by CONSULTANT, or of any of DISTRICT's rights or remedies. No such delay shall deprive DISTRICT of its right to institute and maintain any action or proceeding which may be necessary to protect, assert, or enforce any rights or remedies arising out of this Agreement or the performance of this Agreement.

ARTICLE 16: PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 17: TERMS

No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties. No oral understanding or agreement not incorporated herein shall be binding on any of the parties.

ARTICLE 18: INCORPORATION OF RECITALS

The foregoing recitals are incorporated herein as though fully set forth.

ARTICLE 19: CALIFORNIA LAW

This Agreement shall be interpreted and construed pursuant to the laws of the State of California. The parties agree that should litigation arising from this Agreement be commenced within California, such litigation shall occur within a court of competent jurisdiction within the County of Ventura.

ARTICLE 20: EXECUTION IN COUNTERPARTS

This Agreement and any amendments hereto may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original, but all such counterparts shall constitute one and the same Agreement, as may be amended from time to time. Delivery of an executed counterpart of a signature page to this Agreement by facsimile, PDF or other electronic means shall have the same impact and effect as original counterparts and shall be valid, enforceable and binding.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

TRIUNFO WATER & SANITATION DISTRICT

SEARLE CREATIVE GROUP LLC

By _____
Raymond Tjulander
Chair, Board of Directors

By _____
Kellie Meehan
Owner & CEO

APPROVED AS TO FORM:
ARNOLD, LaROCHELLE, MATHEWS,
VANCONAS & ZIRBEL, LLP

By _____
JOHN M. MATHEWS
Legal Counsel for DISTRICT

ATTEST:

By _____
JULIET RODRIGUEZ
Clerk of the Board