

AGENDA


**COMMUNITY AFFAIRS COMMITTEE MEETING
LEUCADIA WASTEWATER DISTRICT**

March 2, 2016 –10:30 A.M.
1960 La Costa Avenue, Carlsbad, CA 92009

1. **Call to Order**
2. **Roll Call**
3. **Public Comment**
4. **New Business**
 - A. Staff recommends that the CAC review and recommend that the Board of Directors:
 1. Authorize the General Manager to execute an agreement with Rising Tide Partners for as needed public information services for a period of 3 years with an option for 2 additional years; and
 2. Authorize the General Manager to execute Task order No. 1 to the Rising Tide Partners Public Information Services Agreement in an amount not to exceed \$14,780. (Pages 1-13).
5. **Information Items**

None.
6. **Directors' Comments**
7. **General Manager's Comments**
8. **Adjournment**

MEMORANDUM

DATE: February 25, 2016
TO: Community Affairs Committee
FROM: Paul J. Bushee, General Manager 
SUBJECT: **Agreement for As Needed Public Information Services**

RECOMMENDATION:

Staff requests that the Community Affairs Committee (CAC) recommend that the Board of Directors:

1. Authorize the General Manager to execute an agreement with Rising Tide Partners for as needed public information services for a period of 3 years with an option for 2 additional years, and
2. Authorize the General Manager to execute Task Order No. 1 to the Rising Tide Partners' Public Information Services Agreement in the amount not to exceed \$14,780.00 for services through June 2016.
3. Discuss and take action, as appropriate.

DISCUSSION:

During October 2015, staff solicited proposals from qualified firms for public information services. Proposals were received from the following seven firms:

- MC Brand Studios
- Katz & Associates
- Nuffer, Smith, Tucker
- TRG & Associates
- NV5
- JPW Communications
- Rising Tide Partners

A selection committee consisting of the GM, Administrative Services Manager, and Administrative Services Supervisor reviewed the proposals. As a result, four (4) firms were selected to participate in the next phase of the selection process. On January 28, 2016, NV5, Katz & Associates, TRG & Associates, and Rising Tide Partners were interviewed by the selection committee. Based on the interviews and the proposals submitted, Rising Tide Partners was selected as the most qualified firm.

Overarching agreement

If authorized, the proposed Professional Services Agreement (attachment 1) will retain Rising Tide Partners for an initial 3 year contract period with an option to extend for 2 additional years. These terms were selected for efficiency and to allow for continuity of service beyond the initial term should it be warranted by Rising Tide Partners performance. Compensation is based on time and materials in accordance with task orders authorized by the District that correspond within each fiscal year of the contract.

Task order no. 1:

Under the agreement, LWD will execute separate task orders that coincide with LWD's fiscal year budget cycle. Since LWD is in the midst of Fiscal Year 2016, Task Order No. 1 has been designed

to cover services from March through June 2016. Staff has negotiated the scope of work for Task Order No. 1 that includes public outreach services important to LWD's public information program.

Specific tasks include:

- Review of existing Public Information Program;
- Review of branding content and recommend revisions as needed;
- Facebook Content Research, generate content and scheduling to build Facebook audience;
- Suggest and draft new website content as required; and
- Draft, design, print and mailing of the spring/summer newsletter

It is important to point out that Task Order No. 1 includes routine items in LWD's Communication Plan. However, Rising Tide Partners recommends reviewing LWD's existing program along with its branding content. Staff agreed that creating consistent public outreach tools is an important factor to consider when updating LWD's Public Information Program. The total proposed fee for Task Order No. 1 is \$14,780.00 (attachment 2).

th:PJB

Attachments

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE LEUCADIA WASTEWATER DISTRICT
AND
RISING TIDE PARTNERS
FOR PUBLIC INFORMATION SERVICES**

Ref: 16-4850

This Professional Services Agreement ("Agreement") is made on this 9th day of March 2016 between the LEUCADIA WASTEWATER DISTRICT ("DISTRICT"), and Rising Tide Partners, ("CONSULTANT"), an independent contractor, with a principal place of business in San Diego, California.

**ARTICLE 1.
TERM OF CONTRACT**

1.01. This Agreement will become effective on the date stated above. This AGREEMENT shall be for the period of three (3) years from the date stated above with an option to renew or extend the AGREEMENT for two (2) additional years, or until terminated as provided under Article 7. The renewal or extension will be executed, in writing, by both parties.

**ARTICLE 2.
SERVICES TO BE PERFORMED BY CONSULTANT**

Specific Services

2.01. CONSULTANT will perform the deliverables within the scope described in separate Task Orders corresponding to each year of the contract period. Each Task Order, with the associated fee schedule, shall be EXECUTED by the DISTRICT and CONSULTANT in writing. CONSULTANT will provide DISTRICT with periodic reports regarding the progress of services performed, at the DISTRICT's request.

2.02. CONSULTANT will determine the method, details, and means of performing the above-described services.

Status of CONSULTANT

2.03. CONSULTANT and its employee(s) are engaged in an independent contractor relationship with DISTRICT in performing all work, duties and obligations hereunder. DISTRICT shall not exercise any control or direction over the methods by which CONSULTANT shall perform its work and functions. DISTRICT's sole interest and responsibility is to ensure that the services covered by this Agreement are performed and rendered in a competent, satisfactory and legal manner. The parties agree that no work, act, commission or omission of CONSULTANT or its employee(s) pursuant to this Agreement shall be construed to make CONSULTANT or its employee(s) the agent, employee or servant of DISTRICT. CONSULTANT and its employee(s) are not entitled to receive from DISTRICT vacation pay, sick leave, retirement benefits, Social Security, workers' compensation, disability benefits, unemployment benefits or any other employee benefit of any kind.

Payment of Income Taxes

2.04. CONSULTANT shall be solely responsible for paying all federal and state employment and income taxes, for carrying workers' compensation insurance and for otherwise complying with all other employment law requirements with respect to CONSULTANT or its employee(s).

2.05. CONSULTANT agrees to indemnify, defend and hold DISTRICT harmless from any and all liability, damages or losses (including attorneys' fees, costs, penalties and fines) DISTRICT suffers as a result of (a) CONSULTANT's failure to meet its obligations under paragraph 2.04, or (b) a third party's designation of CONSULTANT or its employee as an employee of DISTRICT, regardless of any actual or alleged negligence by DISTRICT.

Compliance with Laws/Rules

2.06. CONSULTANT will perform all services under this agreement in good faith and in the best interests of DISTRICT. In performing the services specified in this Agreement, CONSULTANT agrees to comply with all federal and state laws, rules and regulations, applicable DISTRICT policies and procedures, departmental rules and other directives applicable to the services to be performed. Any changes to DISTRICT policies and procedures that relate to CONSULTANT will be provided to CONSULTANT in writing. CONSULTANT agrees to review such policies, procedures, rules and directives the contents of which CONSULTANT will be deemed to have knowledge.

ARTICLE 3 PROJECT TEAM

3.01 DISTRICT has a primary interest in maintaining the individual services of the following key project team members:

1. Jared R. Criscuolo, President/Founder

No member of the project team shall be removed from the project team or reassigned by CONSULTANT without prior approval of DISTRICT. Such approval shall not be unreasonably withheld or delayed. The CONSULTANT shall be required to immediately inform the DISTRICT should any of the key members become unavailable. The credentials for substitutes for key project members must be submitted to the DISTRICT for review and approval. An interview may also be required if so desired by the DISTRICT.

ARTICLE 4 COMPENSATION

4.01 Compensation for the services provided under this contract shall be on a time and material basis in accordance with Task Orders authorized by DISTRICT. Rate schedules for CONSULTANT may be adjusted on an annual basis as mutually agreed, in writing, by the DISTRICT and CONSULTANT. Each task and the associated fee performed under this contract shall be authorized by Task Orders executed by DISTRICT's General Manager and CONSULTANT's Project Manager (or Project Supervisor or Contract Administrator). Fees approved by Task Order shall not be exceeded without the prior written consent of both parties. The parties agree that this compensation was developed in accordance with the customary and prevailing compensation level in the community and surrounding area for comparable services. CONSULTANT and DISTRICT agree that this fee was arrived at through arms length negotiations between the parties.

Payment of Expenses

4.02 DISTRICT will reimburse CONSULTANT for all reasonable expenses incurred in performing services under this Agreement as the work progresses. CONSULTANT shall submit invoices to the DISTRICT'S Project Manager once per month. Such invoices shall include a brief narrative description of the work performed, as well as detailed time expenditures on a task by task basis. The term "expenses" means telephone bills, federal express charges, mailing charges and any other pre-approved expenses by DISTRICT. CONSULTANT will provide DISTRICT with receipts for all expenses. DISTRICT shall make payment to CONSULTANT within thirty (30) days of receipt of approved invoice. Payment provision for any service other than those described in Task Orders will be set forth in an amendment to the Agreement.

ARTICLE 5 OBLIGATIONS OF CONSULTANT

Non-Exclusive Relationship

5.01 CONSULTANT may represent, perform services for, and contract with as many additional clients, persons, or companies as CONSULTANT, in its sole discretion, sees fit. However, CONSULTANT shall be responsible for ensuring that its relationship with additional clients, persons, or companies do not violate conflict of interest laws.

Tools, Materials, and Equipment

5.02 CONSULTANT will supply all tools materials, and equipment required to perform the services under this Agreement.

CONSULTANT'S Qualifications

5.03 CONSULTANT represents that its employee(s) has the qualifications and skills necessary to perform the services under this Agreement in a competent, professional manner, without the advice or direction of DISTRICT. This means CONSULTANT is able to fulfill the requirements of this Agreement. Failure to perform all the services required under this Agreement constitutes a material breach of the Agreement. CONSULTANT has complete and sole discretion for the manner in which the work under this Agreement will be performed.

Indemnity

5.04 CONSULTANT agrees to indemnify, defend, and hold DISTRICT and its officials, officers, directors, agents and employees free and harmless from all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including for bodily injury and property damage, interest, penalties, attorneys' fees, litigation expenses and costs that such entities or persons may incur as a result of any negligent act or omission by CONSULTANT or a breach by CONSULTANT of any representation or agreement contained in this Agreement. CONSULTANT'S provision of insurance coverage as described in Section 5.05 below shall not affect CONSULTANT'S indemnity obligations.

Insurance

5.05 CONSULTANT will provide and keep in full force and effect during the term of this Agreement the insurance policies listed below. Insurance will be purchased from insurance companies with a current A.M. Best's rating of no less than A:VI, unless otherwise agreed to in

writing by DISTRICT. CONSULTANT will provide insurance coverage and policy endorsements for the DISTRICT and their respective officers, officials, directors, employees, volunteers or agents.

5.05.1 California Workers' Compensation, in compliance with California requirements.

5.05.2 General Liability Insurance [occurrence form CG 0001], covering bodily injury, personal injury and property damage with a combined single limit of no less than One Million Dollars (\$1,000,000) per occurrence, and a minimum annual aggregate of Three Million Dollars (\$3,000,000). If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

5.05.3 Automobile Liability Insurance [form number CA 0001, covering Automobile Liability Code 1 (any auto)] covering bodily injury and property damage, with a combined single limit of no less than One Million Dollars (\$1,000,000) per claim.

5.05.4 Employer's Liability Insurance with a combined single limit of no less than One Million Dollars (\$1,000,000) per claim.

5.05.5 Error and Omissions Insurance appropriate to CONSULTANT's services, with a combined single limit of no less than One Million Dollars (\$1,000,000) per claim. Coverage is to be endorsed to include contractual liability.

5.05.6 Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the DISTRICT, prior to commencement of services under this Agreement. At the option of the DISTRICT, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the DISTRICT, its officers, official, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the DISTRICT guaranteeing payment of losses and related investigations, claim administration and defense expenses.

5.05.7 Verification of Coverage

CONSULTANT shall furnish the DISTRICT with original certificates and amendatory endorsements effecting coverage required in this Agreement. The endorsements should be on forms provided by the DISTRICT or on other than the DISTRICT's forms provided those endorsements conform to DISTRICT requirements. All certificates and endorsements are to be received and approved by the DISTRICT before work commences. The DISTRICT reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

5.05.8 Other Insurance Provisions

1. The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
 - a. The DISTRICT, its officers, officials, employees and volunteers are to be covered as insureds as respects: liability arising out of work or operations

performed by or on behalf of the CONSULTANT; or automobiles owned, leased, hired or borrowed by the CONSULTANT.

b. For any claims related to this project, the CONSULTANT's insurance coverage shall be primary insurance as respects the DISTRICT, its officers, officials, employees and volunteers. The DISTRICT shall be named as an additional insured. Any insurance or self-insurance maintained by the DISTRICT, its officers, officials, employees or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it, for claims arising out of CONSULTANT's performance under this Agreement.

c. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the DISTRICT.

d. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

2. If the Errors and Omissions/Professional Liability or General Liability coverage is written on a Claims Made instead of occurrence based form, the coverage may be acceptable if the following requirements are satisfied:

a. The "Retro Date" must be shown, and must be before the date of the Agreement or the beginning of work under this Agreement.

b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of work under this Agreement.

c. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "Retro Date" prior to the Agreement effective date, the CONSULTANT must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work under this Agreement.

d. A copy of the claims reporting requirements must be submitted to the DISTRICT for review.

Conflict of Interest

5.06 Upon the award of this Contract and periodically thereafter, CONSULTANT may be required to complete and file with the DISTRICT a Conflict of Interest form, to be provided to CONSULTANT by DISTRICT.

Assignment

5.07 Neither this Agreement nor any duties or obligations under this Agreement may be assigned by CONSULTANT without the prior written consent of DISTRICT.

**ARTICLE 6
OBLIGATIONS OF DISTRICT**

6.01 DISTRICT agrees to comply with all reasonable requests of CONSULTANT and provide access to all documents reasonably necessary to the performance of CONSULTANT's duties under this Agreement.

Indemnity

6.02 DISTRICT agrees to indemnify, defend, and hold CONSULTANT free and harmless from all claims, demand, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, attorneys' fees, and costs, that CONSULTANT may incur as a result of a breach by DISTRICT of any representation or agreement contained in this Agreement.

**ARTICLE 7
TERMINATION OF AGREEMENT**

Termination for Default

7.01 If either party defaults in the performance of this Agreement or materially breaches any of its provisions, the non-breaching party may immediately terminate this Agreement by giving written notification to the breaching party. Termination will take effect immediately on receipt of notice by the breaching party or five (5) calendar days after mailing of notice, whichever occurs first. For the purposes of this paragraph, material breach of this Agreement includes, but is not limited to, the following:

7.01.1 CONSULTANT's failure to complete the services specified in Article 2 of this Agreement.

7.01.2 CONSULTANT's material breach of any representation or term contained in this Agreement.

7.01.3 DISTRICT's material breach of any representation or agreement contained in this Agreement.

Termination Without Cause

7.02 DISTRICT may terminate or abandon any portion or all of the work without cause by giving thirty (30) calendar days written notice. Notice shall be delivered by certified mail, return receipt requested. In such event, DISTRICT shall negotiate a revision to the compensation based on documentation of work completed to-date, however, no amount shall be allowed for anticipated profits or unperformed services. Upon termination of the agreement, DISTRICT will be given immediate title to all written data, original drawings and other documents, developed for that portion of the work completed and/or being terminated or abandoned.

Compensation Upon Termination

7.03 Upon termination of this agreement under Sections 7.01 or 7.02 above, DISTRICT will pay to CONSULTANT any outstanding service fees or expenses minus any costs reasonably incurred by DISTRICT related to CONSULTANT's services under this Agreement prior to the notice of termination.

**ARTICLE 8
PROPRIETARY RIGHTS
Confidential Information**

8.01 Any written, printed, graphic, or electronically or magnetically recorded information furnished by DISTRICT for CONSULTANT's use are the sole property of DISTRICT. This proprietary information includes, but is not limited to, customer requirements, customer lists, marketing information, and information concerning DISTRICT employees, products, services, prices, operations, and subsidiaries.

8.02 CONSULTANT and its employee(s) will keep this confidential information in the strictest confidence, and will not disclose it by any means to any person except with DISTRICT approval, and only to the extent necessary to perform the services under this Agreement. This prohibition also applies to CONSULTANT's employees, agents, and subcontractors. On termination of this Agreement, CONSULTANT will promptly return any confidential information in its possession to DISTRICT.

**ARTICLE 9
GENERAL PROVISIONS
Notices**

9.01 Any notices required to be given under this Agreement by either party to the other may be affected by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices must be addressed to the parties at the addresses below, but each party may change the address by giving written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of the day of receipt or the fifth day after mailing, whichever occurs first.

To DISTRICT: Leucadia Wastewater District
1960 La Costa Avenue
Carlsbad, California 92009
Attention: Mr. Richard Duffey

To CONSULTANT: Rising Tide Partners_
4876 Santa Monica Ave., Suite 226
San Diego, CA 92107
Attention: Jared R. Criscuolo

Entire Agreement of the Parties

9.02 This Agreement contains the entire understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements, or conditions, express or implied, oral or written, except as herein contained. The express terms hereof control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms hereof. This Agreement may not be modified or amended other than by an agreement in writing.

Partial Invalidity

9.03 If any non-material provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

Attorneys' Fees

9.04 If any legal action, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which that party may be entitled.

Document and Materials Ownership

9.05 All original drawings, and other copies of documents and materials developed for the project, including detailed calculations, shall be furnished to and become the property of DISTRICT. The DISTRICT agrees to indemnify the CONSULTANT for claims, damages, or liabilities caused by any use by the DISTRICT of the plans, drawings, specifications, and all information gathered by the CONSULTANT on any project other than the one for which such plans, drawings, and specifications were prepared and information gathered by the CONSULTANT.

Governing Law

9.06 This Agreement and all questions relating to its validity, interpretation, performance, and enforcement (including, without limitation, provisions concerning limitations of actions), shall be governed by and construed in accordance with the laws of the state of California, notwithstanding any conflict-of-laws doctrines of such state or other jurisdiction to the contrary and without the aid of any canon, custom, or rule of law requiring construction against the draftsman.

Executed in San Diego County, California, on the day first written above.

LEUCADIA WASTEWATER DISTRICT

RISING TIDE PARTNERS

By: _____
Paul J. Bushee, General Manager

By: _____
Jared R. Criscuolo, President

**TASK ORDER NO. 1
TO THE AGREEMENT BETWEEN
THE LEUCADIA WASTEWATER DISTRICT
AND RISING TIDE PARTNERS
FOR PROVIDING PUBLIC INFORMATION SERVICES**

Ref: 16-4851

This Task Order No. 1 to the AGREEMENT is made and entered into this 9th day of March, 2016 by and between the LEUCADIA WASTEWATER DISTRICT, hereinafter referred to as DISTRICT, and RISING TIDE PARTNERS, hereinafter referred to as CONSULTANT.

WHEREAS, the DISTRICT and CONSULTANT entered into an AGREEMENT on March 9, 2016 for Public Information Services; and

WHEREAS, the DISTRICT has determined it would be most efficient to amend the AGREEMENT to allow CONSULTANT to provide specific public information services critical to the DISTRICT.

NOW THEREFORE, in consideration of their mutual promises, obligations and covenants hereinafter contained, the DISTRICT and CONSULTANT agree to amend the AGREEMENT as follows:

ARTICLE 2: SERVICES TO BE PERFORMED BY CONSULTANT

The Scope of Work for the period March 9, 2016 to June 30, 2016 shall include the services described in Attachment A.

ARTICLE 4: COMPENSATION

Compensation for all work performed under Task Order No. 1 shall be calculated on a time and material basis. Compensation for the services described in Attachment A shall not exceed Fourteen Thousand Seven Hundred Eighty Dollars (\$14,780). This amount shall not be exceeded unless there is a change in the scope of work and/or additional authorization by the DISTRICT, in writing and agreed to by both parties.

All other provisions of the original AGREEMENT shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto caused this Task Order to be executed the day and year first written above.

RISING TIDE PARTNERS

LEUCADIA WASTEWATER DISTRICT

By: _____
Jared R. Criscuolo
President

By: _____
Paul J. Bushee
General Manager

ATTACHMENT A

SCOPE OF WORK FOR PUBLIC INFORMATION SERVICES

March 9, 2016

DESCRIPTION OF SERVICES

The services included within this scope of work consist of the design and construction of certain public information elements critical to Leucadia Wastewater District. The services included are those specifically required by the District.

I. SCOPE OF SERVICES

Based on our experience with similar public information projects, the following scope of services describes the tasks anticipated for this phase of LWD's Public information Program.

TASK 1 – KNOWLEDGE BUILDUP AND TRANSFER

- Review existing Public Information Program.
- Meet with LWD staff/Community Affairs Committee, as required.

TASK 2 – COMMUNICATION PLAN REVIEW AND “BRAND” GUIDELINES

- Review existing branding content and recommend revisions as need for consistent message throughout the District's Communication tools.

TASK 3 – WEBSITE REVIEW AND FACEBOOK GROWTH

- Facebook Content Research, Generate content and Scheduling
- Build Facebook Audience
- Suggest and draft new website content, as required.

TASK 4 - NEWSLETTER

- Draft and manage the design, printing and mailing of the spring/summer newsletter.
- Meet with Community Affairs Committee up to two times for each newsletter.

II. FEES AND CONDITIONS

The Services described in Section I. above, will be provided on an hourly rate basis in accordance with the current RISING TIDE PARTNERS Standard Rate Schedule with a not to exceed upper limit of \$14,780.