

MEMORANDUM

TO: Board of Trustees

FROM: Indra Winqest
District General Manager

SUBJECT: Review, discuss and possibly approve a contract with Tri-Strategies, Ltd. to provide legislative advocacy services in the not to exceed amount of \$20,000.00

DATE: August 3, 2021

I. RECOMMENDATION

That the Board of Trustees makes a motion to approve the attached contract with Tri-Strategies for legislative advocacy services in the not to exceed amount of \$20,000.00.

II. BACKGROUND

At the June 9, 2021 Board of Trustees meeting, Tri-Strategies provided a report and following is the excerpt from this meeting which indicates that the Board of Trustees requested Staff to investigate a continuation of the existing contract or a new contract for more services:

F.2. Tri-Strategies Verbal Report of the 2021 Legislative Session – Mr. Eddie Ableser and/or Mr. Paul Klein

Eddie Ableser went over the legislative report that was included in the packet. Trustee Dent asked about their agreement. Mr. Ableser said it goes through the end of June. Trustee Dent asked what would the duration be for one of the special sessions to secure some of these monies for the pipeline and pond lining and are there two options and what duration are we looking at? Mr. Ableser said they are always willing to serve at the pleasure of the Board and that they have enjoyed working with you and your team. The process could start the process tomorrow and get us engaged in that process with the State and engaging with the Washoe County. He doesn't know the date of the special session and doesn't know when Washoe County will be discussing their release of funds. Chairman Callicrate asked if we need to agendize that additional engagement? District General Manager Winqest said he wanted to respond and he will set some time to meet with Mr. Ableser and discuss what we are doing and that he does see

the value of retaining them. District General Manager Winquest continued that the Staff met with Nevada League of Cities today and thanked Trustee Tonking for joining them at this meeting. It is important as there is a lot of money out there and that he is very confident that the return on the investment will be worth it. Chairman Callicrate said for this Board to discuss this any further, we do need to have it agendize or hold a special meeting to discuss this because we don't have it on the agenda tonight. Trustee Schmitz said if we agendize this she would ask that it include some clarification and how the efforts interact with Mr. Faust in order to understand that collaboration and bring it to closure. Chairman Callicrate said we may need to have a special meeting on this effort. District General Manager Winquest said he is going to have a wrap up meeting, discuss the timing of the special session, Staff has had several meetings with Mr. Faust and his team, and that we will let Mr. Faust know that he needs to make a formal presentation to the Board. If we can wait until July 13, that would be ideal and that he will reach out if a meeting is needed sooner.

Policy 3.1.0, paragraph 0.10, Legislative Matters reads as follows:

The General Manager may from time to time propose positions on legislative issues, which positions shall be reviewed and approved by the Board at its regular meeting.

On February 1, 2021, the Nevada Legislature convened its 81st session. During this session, Tri-Strategies performed legislative advocacy services for the District. Their services were deemed appropriate and sufficient. At the end of this session, Tri-Strategies notified the Board of Trustees that the Governor of the State of Nevada is planning on calling a Special Session that date of which is presently undetermined. Staff is being proactive and getting Tri-Strategies under contract in advance of this Special Session. In anticipation of this Special Session, Staff also budgeted monies to cover this expense under Professional Services, General Fund (100.11.100.6030). This expenditure is within the General Manager's Spending Authority and has been budgeted however Staff wants to get the Board's approval on this contract.

Also, Federal Legislative Advocate Marcus Faust continues to provide the District legislative advocacy services at the Federal level and he will be present at a future Board meeting to update the Board of Trustees in person.

Following is an excerpt from a report provided to the Board of Trustees in 2019 regarding Mr. Faust's contract:

Mr. Faust has provided Federal Legislative Advocacy Services for the District for over fifteen years. The primary purpose of the legislative

advocacy service is to secure funding for the District's Effluent Export Project and Watermain and Fire Flow Enhancement Improvement Project.

The District's efforts with Mr. Faust have led to receiving \$15.5 million dollars through the Water Infrastructure Improvements for the Nation Act (WIIN Act 2016) Section 595 Program for the Effluent Export Project. The WIIN Act was formerly called the Water Resources Development Act. The District has also received \$6 million from the Lake Tahoe Restoration Act Section 108 Program for funding Environmental Restoration Projects that was matched with \$2 million of State of Nevada Funding for Mill, Incline and Third Creeks Restoration Projects. Mr. Faust has also worked with the legislative advocates for South Tahoe PUD (STPUD) in obtaining water infrastructure funding to improve Lake Tahoe public water systems for fire flow for the critical wildland urban interface communities in Lake Tahoe. The District has received over \$3.8 million in this funding from the US Forest Service through STPUD. Lake Tahoe public water systems have received over \$17 million in total funding to improve fire flows.

Mr. Faust has worked with the Nevada Delegation and other western states on raising the authorization of the Section 595 Program of the Water Infrastructure Improvements for the Nation Act (WIIN Act 2016). Nevada will be collaborating on Rural Section 595 with five other states, New Mexico, Montana, Wyoming, Idaho and Utah, who already have projects which qualify under Section 595. The new Section 595 Program increased the authorization limit by \$100 million over the previous limit to allow new annual appropriations through the Federal Budget process. Mr. Faust also got new language inserted into Section 595 that clarifies that funding caps do not apply to individual States and that unspent monies can be allocated to priority projects in any state. This was an extremely important piece of language to have added because the US Army Corps was not open to discussing a new Project Cooperation Agreement (PCA) because they had interpreted that Nevada had spent their allocation of funds under Section 595.

In 2017 and 2018, Staff and Mr. Faust worked with the US Army Corps staff in Sacramento and US Army Corps staff in Washington on having bulletins prepared describing this new language change. This has allowed the District to pursue entering into a new PCA to utilize unspent monies in the current Section 595 Fund Balance.

In 2019, the primary objectives are to, enter into a PCA with US Army Corps to utilize unspent funds, appropriate new funds to Section 595 and maintain and increase funding for the watermain and fire flow enhancement funding through the US Forest Service Budget and the newly passed Lake Tahoe Restoration Act.

Following is a summary table from a report provided to the Board of Trustees on March 28, 2018 regarding Mr. Faust's contract:


Program	Project	Funding Received
Section 595	Effluent Export Pipeline	\$15,450,000
Section 108	Mill, Third and Incline Creek Restoration Projects	\$6,140,000
USFS Budget	Watermain and Fireflow Enhancement Projects	\$3,600,000
	TOTAL	\$25,190,000


TRI-STRATEGIES, LTD

Incline Village General Improvement District

2021 IVGID Contract & Scope of Work

1. **Parties Involved:** Tri-Strategies, LTD ("Consultant") agrees to provide the following services to Incline Village General Improvement District "IVGID" ("Client"), upon the terms and conditions set forth in this Agreement.
2. **Services:** Consultant agrees to perform the services identified by IVGID staff in a Scope of Work.
3. **Starting and Completion Dates:** The term of this Agreement is from August 15, 2021 to December 31, 2021, subject to any mutually agreed upon extension in writing (the "Term").
4. **Additional Work:** This Agreement may be modified to add to the tasks and scope of work should both parties (Consultant and Client) be in agreement in writing on the modifications. Consultant shall be paid for such services as mutually agreed upon by the parties.
5. **Work Delegation:** All direct services shall be those of Consultant as agreed upon between Consultant and Client.
6. **Termination:** Either of the parties shall have the right to immediately terminate this Agreement prior to the conclusion of the Term by providing the other with written notice. Upon any early termination of this Agreement, Client shall pay Consultant for all services performed and pre-approved expenses incurred prior to the date of termination. Notwithstanding the foregoing, Client shall have the right to immediately terminate this Agreement upon notice to Consultant in the event that Consultant breaches any of the terms of this Agreement and has failed to cure said breach, if curable, within forty-eight (48) hours of receipt of such notice. A notice, if required, shall be made to: Consultant: Tri-Strategies, Eddie Ableser 59 Damonte Ranch Parkway #B-552, Reno, NV 89511; Client: Attn: General Manager, 893 Southwood Blvd., Incline Village, NV, 89451.
7. **Independent Contractor Status:** Consultant and Client are independent contractors acting for their own account, and neither party nor its employees are authorized to make any representations or commitments on the other party's behalf or to hold itself out as the agent of the other.
8. **Fees and Payment Schedule:** The fees for total assignment, project, or service and the payment schedule are outlined in the Scope of Work. All invoices shall be sent to IVGID, Attn: District General Manager, 893 Southwood Blvd., Incline Village, NV 89451.

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9. **Expenses**: Consultant shall be reimbursed by Client for pre-approved (in writing) extraordinary expenses relating to this Agreement.
 10. **Late Payment**: Payment of Consultant invoices is due in full upon presentation of invoice. Consultant invoices not paid by Client within thirty (30) days of date of billing will be subject to a late payment charge equal to the lesser of (i) one percent (1%) per month; or (ii) the maximum amount allowed by law.
 11. **Stop Work**: Consultant shall discontinue work and this Agreement shall terminate after sixty (60) days of nonpayment by Client, of fees and pre-approved (in writing) expenses billed by Consultant.
 12. **Confidentiality**: Consultant shall treat as confidential and will not disclose any proprietary information that is disclosed by Client or that comes to the attention of Consultant prior to, during, or following the course of this Agreement.
 13. **Applicable Law**: This Agreement shall be enforced in accordance with, and in performance shall be governed by, the laws of the State of Nevada without giving effect to the conflict of law provisions thereof.
 14. **Indemnification**: Each party hereby agrees to indemnify and hold harmless the other party and its directors, officers, and employees from any and all liabilities, losses, costs, damages, claims, liens, judgments, penalties, fines, legal fees, court costs and other legal expenses, insurance policy deductibles, and all other expenses arising out of or related to the indemnifying party's activities, operations or omissions pursuant to this Agreement. Such indemnity shall apply to the fullest extent permitted by applicable law. The obligations of the indemnifying party under this Section shall survive the expiration or termination of this Agreement. This mutual indemnity shall be subject to principles of comparative negligence.
 15. **Exclusion of Damages**: In no event shall either party be liable to the other or any other person or entity for any special, exemplary, indirect, incidental, consequential or punitive damages of any kind or nature whatsoever (including, without limitation, lost revenues, profits, savings or business) or loss of records or data, whether in an action based on contract, warranty, strict liability, tort (including, without limitation, negligence) or otherwise, even if such party has been informed in advance of the possibility of such damages or such damages could have been reasonably foreseen by such party. For clarity, the foregoing does not exclude fines or penalties.
 16. **Disputes**: Any controversy, claim, or dispute of whatever nature arising between the parties (a "Dispute") shall be resolved by mediation or, failing mediation, by binding arbitration. This agreement to mediate or arbitrate shall continue in full force and effect despite the expiration, rescission, or termination of this Agreement.



Either party may begin the mediation process by giving a written notice to the other party setting forth the nature of the Dispute. The parties shall attempt in good faith to resolve the Dispute by mediation within sixty (60) days of receipt of that notice.

If the Dispute has not been resolved by mediation as provided above, or if a party fails to participate in mediation, then the Dispute shall be resolved by binding arbitration in Nevada. The arbitration shall be undertaken pursuant to the substantive laws of the State of Nevada and the Federal Arbitration Act. The decision of the arbitrator shall be enforceable in any court of competent jurisdiction. The parties knowingly and voluntarily waive their rights to have the Dispute tried and adjudicated by a judge or jury.

Any party may demand arbitration as provided above by sending written notice to the other party. The arbitration and the selection of the arbitrator(s) shall be conducted in accordance with such rules as may be agreed upon by the parties, or, failing agreement within thirty (30) days after arbitration is demanded, under the rules of the American Arbitration Association, using a single arbitrator regardless of the amount in Dispute. The arbitration shall be held in Nevada or at any other location agreed upon by the parties.

17. **Compliance with Laws**: During the Term, Consultant and its principals shall be responsible, at its own expense, comply with all applicable laws and regulations, including without limitation, all registration, reporting, lobbying, and ethics requirements.
18. **Signatures**: The parties have accepted and signed this Agreement as of the dates shown below:

Consultant

Client

Eddie Ableser Ph.D.

Indra S. Winquest

Chief Executive Officer

IVGID

Tri-Strategies, LTD.

District General Manager

Date: _____

Date: _____

Scope of Work

Consultant will represent the Incline Village General Improvement District at the forthcoming Legislative Special Session for the State of Nevada in Carson City, Nevada, scheduled to start on or about August 15, 2021 and scheduled to end on or about February 28, 2022. Consultant will verbally communicate with the Incline Village General Improvement District’s District General Manager and Board of Trustees Chair the information as it develops during this special session and determine the impacts of proposed legislation to the Incline Village General Improvement District. Specifically, but not limited to, Consultant will advocate on proposed or potential legislation in a position determined by the Incline Village General Improvement District. To the extent possible, Consultant will coordinate its work with Washoe County’s Legislative advocate. Additionally, the Consultant will represent the Incline Village General Improvement District before all agencies who are in receipt of Federal funds available for Incline Village General Improvement District or its project (CARES Act, America Infrastructure Act, Nevada Main Street USA Beautification, etc.) to ensure the Incline Village General Improvement District may receive funding for its projects that fit the applicable legislation. Finally, as the issues arise that merit dedicated lobbying and representation, Consultant shall work with the District General Manager and Board of Trustees Chair to bring forth those matters to the Board of Trustees such that clear direction can be provided for the necessary services assuming time permits.

Deliverables

1. Written communication(s) to the Incline Village General Improvement District’s District General Manager and Board of Trustees at intervals deemed to be mutually agreed to by the Consultant, District General Manager and Board of Trustees based on the activity at the Legislative session.
2. An in person verbal report accompanied by a written report, every two months at minimum, at a regular or special meeting of the Board of Trustees of the Incline Village General Improvement District on a date that is mutually agreed to by the Consultant, District General Manager, and Board of Trustees.

Fee Schedule – Option 1

1. Representation to begin on August 15, 2021 and scheduled to end on or about February 28, 2022. Billing shall occur at the start of each month and shall be divided into payments of \$3,000.00 per month (prorated as necessary) which includes attendance at the meeting(s) of the Incline Village General Improvement District Board of Trustees and includes all expenses for time spent in preparation, mileage, and printed reports.

Maximum not-to-exceed value of this agreement\$20,000.

Fee Schedule – Option 2

1. Representation to begin on August 15, 2021. Billing shall occur at the start of the contract and shall be on an hourly basis at the rate of \$250 per hour which includes attendance at the meeting(s) of the Incline Village General Improvement District Board of Trustees which includes all expenses for time spent in preparation, mileage, and printed reports.

Maximum not-to-exceed value of this agreement\$20,000.

