

willful misconduct in the performance (or actual or alleged non-performance) of the work under this agreement. Consultant shall defend itself against any and all liabilities, claims, losses, damages, and costs arising out of or alleged to arise out of Consultant's performance or non-performance of the work hereunder and shall not tender such claims to Mission Springs Water District nor to its directors, officers, employees, or authorized volunteers, for defense or indemnity.

- b. Other than in the performance of professional services, to the fullest extent permitted by law, Consultant will immediately defend, indemnify and hold harmless Mission Springs Water District, its directors, officers, employees and authorized volunteers from all claims and demands of all persons arising out the performance of the work or furnishing of materials; including but not limited to, claims by the Consultant or Consultant's employees for damages to persons or property except for the sole negligence or willful misconduct or active negligence of Mission Springs Water District, its directors, officers, employees, or authorized volunteers.
- c. By his/her signature hereunder, Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Consultant will comply with such provisions before commencing the performance of the professional services under this agreement. Consultant and sub-consultants will keep workers' compensation insurance for their employees in effect during all work covered by this agreement.
- d. Consultant will file with Mission Springs Water District, before beginning professional services, a certificate of insurance satisfactory to Mission Springs Water District evidencing professional liability coverage of not less than \$1,000,000 per claim and \$2,000,000 annual aggregate, that coverage shall not be cancelled except with notice to Mission Springs Water District. Coverage is to be placed with a carrier with an A.M. Best rating of no less than A-: VII, or equivalent, or as otherwise approved by Mission Springs Water District. The retroactive date (if any) is to be no later than the effective date of this agreement. Consultant shall maintain such coverage continuously for a period of at least five (5) years after the completion of the contract work. Consultant shall purchase a five-year extended reporting period i) if the retroactive date is advanced past the effective date of this Agreement; ii) if the policy is canceled or not renewed; or iii) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement. In the event that the Consultant employs other consultants (sub-consultants) as part of the work covered by this agreement, it shall be the Consultant's responsibility to require and confirm that each sub-consultant meets the minimum insurance requirements specified above.
- e. Consultant will file with Mission Springs Water District, before beginning professional services, certificates of insurance (Acord Form 25 or equivalent) satisfactory to Mission Springs Water District evidencing

Coverage – Coverage for commercial general liability and automobile liability insurance shall be at least as broad as the following:

1. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001)
2. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any auto)

Limit – The consultant shall maintain limits no less than the following

1. General liability - coverage of not less than two million (\$2,000,000) per occurrence or the full per occurrence limits of the policies available, whichever is greater for bodily injury, personal injury and property damage; (\$4,000,000 general and products-completed operations aggregate (if used)).
2. Auto liability - One million dollars \$1,000,000 for bodily injury and property damage each accident limit.
3. Workers' compensation (statutory limits) and employer's liability (\$1,000,000) (if applicable).

Required Provisions –

- The general liability coverage shall give Mission Springs Water District, its directors, officers, employees (collectively the District), and authorized volunteers insured status (via ISO endorsement at least as broad as CG 2010 1185 or **both** CG 20 10 plus CG 20 37 if a later editions is used) specifically naming the Mission Springs Water District, its directors, officers, employees, or authorized volunteers; or using the language that states "as required by written contract."
- The general liability coverage is to state or be endorsed (with as broad as ISO endorsement CG 20 01 04 13) to state "such insurance shall be primary, and any insurance, self-insurance or other coverage maintained by Mission Springs Water District, its directors, officers, employees, or authorized volunteers shall not contribute to it".
- Coverage is to be placed with a carrier with an A.M. Best rating of no less than A- VII, or equivalent, or as otherwise approved by Mission Springs Water District.
- The coverage shall contain no special limitations on the scope of protection afforded to Mission Springs Water District, its directors, officers, employees, or authorized volunteers.
- In the event that the Consultant employs other consultants (sub-consultants) as part of the work covered by this agreement, it shall be the Consultant's responsibility to require and confirm that each sub-consultant meets the minimum insurance requirements specified above.

- f. If any of the required coverages expire during the term of this agreement, the Consultant shall deliver the renewal certificate(s) to Mission Springs Water District at least ten (10) days prior to the expiration date.
- g. Consultant shall not accept direction or orders from any person other than the General Manager or the person(s) whose name(s) is (are) inserted on Page 1 as "other Authorized Representative(s)."
- h. Payment, unless otherwise specified on Page 1, is to be within thirty (30) days after acceptance by Mission Springs Water District.
- i. Professional permits required by governmental authorities will be obtained at Consultant's expense, and Consultant will comply with applicable local, state and federal regulations and statutes including but not limited to Cal/OSHA requirements. Plan review fees shall be paid by Mission Springs Water District or be considered reimbursable if paid by the Consultant.
- j. Any change in the scope of the professional services to be done, method of performance, nature of materials or price thereof, or to any other matter materially affecting the performance or nature of the professional services will not be paid for or accepted unless such change, addition or deletion is approved in advance, in writing by a supplemental agreement executed by Mission Springs Water District. Consultant's "Authorized Representative(s)" has (have) the authority to execute such written change for Consultant.
- k. The other provisions of this Agreement notwithstanding, Professional and the Mission Springs Water District shall share joint copyright rights in the plans and other construction documents ("the Construction Documents") prepared by or on behalf of Professional for the Project, the intention being to provide Mission Springs Water District with the absolute right to use the Construction Documents and the designs embodied therein for any and all purposes without restriction, while enabling Professional to maintain appropriate control over its professional design portfolio.
- l. Consultant hereby assigns to Mission Springs Water District all ownership and any and all intellectual property rights to the Written Products that are not otherwise vested in Mission Springs Water District pursuant to section above.
- m. Consultant shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to the Consultant by the Mission Springs Water District or other information to which the Consultant has had access during the term of this Agreement without the prior written approval of an Authorized Representative during the term of this Agreement. Consultant's covenant under this section shall survive the termination of this Agreement.
- n. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by the Mission Springs Water District or the Authorized

Representative. The Consultant shall maintain adequate records on services provided in sufficient detail to permit an evaluation of service. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. At all times during regular business hours, Consultant shall provide access to such books and records to the Authorized Representative or his or her designees, and shall give the Authorized Representative or his or her designees the right to examine and audit such books and records and to make transcripts as necessary, and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement.

- o. This Agreement is personal to the Consultant. Any attempt to assign or subcontract any right or obligation hereunder by the Consultant shall be void unless approved in writing in advance by the Authorized Representative. Consultant's services pursuant to this Agreement shall be provided by the representative or directly under the supervision of the representative and Consultant shall not assign another to supervise the Consultant's performance of this Agreement without the prior written approval of the Mission Springs Water District, by and through the Authorized Representative.
- p. Consultant shall not maintain, commit, or permit the maintenance or commission of any nuisance in connection with the performance of services under this Agreement.
- q. Consultant agrees to be familiar with and comply with all applicable federal, state, and local conflict of Interest laws, including, but not limited to, the Political Reform Act (California Government Code Sections 81000, et seq.) and California Government Code Section 1090. During the term of this Agreement, Consultant shall retain the right to perform similar services for other clients, but Consultant and its officers, employees, associates and subcontractors shall not, without the prior written approval of the Authorized Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute.
- r. A waiver by the Mission Springs Water District of any breach of any term, covenant, or condition contained in this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement whether of the same or different character.
- s. The Consultant shall commence, carry on, and complete all required tasks with all practicable dispatch, in a sound, economical, and efficient manner in accordance with all applicable laws and generally accepted industry standards.
- t. No Third-Party Beneficiaries. The Mission Springs Water District shall not be obligated or liable under this Agreement to any party other than the Consultant.
- u. In no event shall the making by the Mission Springs Water District of any payment to the Consultant constitute or be construed as a waiver by the Mission Springs Water District of any breach of covenant,

or any default which may then exist, on the part of the Consultant, and the making of any such payment by the Mission Springs Water District while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Mission Springs Water District with regard to such breach or default.

- v. If any legal action is necessary to enforce any provision of this Agreement or for damages by reason of an alleged breach of any provisions of this Agreement, the prevailing Party shall be entitled to receive from the losing Party all costs and expenses in such amount as the courts may determine to be reasonable. In awarding the cost of litigation, the court shall not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses, and attorneys' and experts' fees paid or incurred in good faith.
- w. In the performance of the work required by this Agreement, Consultant shall abide by and conform with and to any and all applicable laws of the United States and the State of California, and with the local County and Municipal Code, ordinances, regulations and policies.
- x. If any part, term, or provision of this Agreement shall be held illegal, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this Agreement, the validity of the remaining portions or provisions shall not be affected by such holding.
- y. The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be the Superior Court of Riverside County, California.
- z. This Agreement represents the entire Agreement between the Mission Springs Water District and Consultant with respect to the subject matter hereto and supersedes all prior oral or written negotiations, representations or agreements. No verbal agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the parties to this Agreement and any subsequent successors and assigns. In the event of any inconsistency between the provisions of this Agreement and Consultant's proposal or Quote, and Exhibits hereto, the provisions of this Agreement shall control.
- aa. Precedence of Exhibits. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.
- bb. Consultant will act hereunder as an independent contractor. This agreement shall not and is not intended to constitute Consultant as an agent, servant, or employee of the Mission Springs Water District and shall not and is not intended to create the relationship of partnership, joint venture or association between the Mission Springs Water District and Consultant.
- cc. Each of the signatories herein hereby represents that he or she has the authority to execute the Agreement on behalf of his or her contracting party.



Exhibit A – Scope of Work



June 29, 2021

Re: Mission Springs Water District - Critical Services Center

Arden Wallum

General Manager

Mission Springs Water District
66575 Second Street
Desert Hot Springs, CA 92240

SCOPE OF SERVICES

FEASIBILITY PHASE

Site Investigations – the Design team shall conduct pre-design investigations, and program development to establish appropriate guidelines for the project, staffing and future expansion provisions.

Stakeholder Input – the Design team shall collect input from all applicable stakeholder groups (as defined by District staff) for input in design.

- Develop studies of (2) two potential district sites.

Meetings

- Up to (2) two Input Meetings

Deliverables

- Site Investigation Report
- Rough Order of Magnitude Construction Cost Estimate
- Site Master Plan and Building Layout

SCHEMATIC DESIGN PHASE

Preliminary Concept Plans that will identify multiple options for the space planning analysis of the site and buildings.

- Preliminary design package identifying major site development, floor plans, building exteriors, and identification of minimum finish requirements.
- Phasing Plans for site development, administration building, and maintenance building
- Conceptual plans, diagrams, imagery, and narratives describing preliminary concepts.
- Preliminary Cost Analysis itemized per phase.
- Initial Schematic Design Package
- Final Schematic Design Package

Meetings

- Up to (4) four design meetings to address specific design issues and to facilitate the decision-making process, additional meetings may be scheduled as needed.

Deliverables

- Schematic Design Package
- Design Narratives/ basis of design
- Preliminary Cost Estimate
- Stakeholder Presentation

DESIGN DEVELOPMENT PHASE

Final Design Plans of the selected Schematic Design Phase option providing more developed site and floor plans for District approval and submittal to MSWD and City of Desert Hot Springs for entitlement

- Final Design package with fully scaled and dimensioned site plans, floor plans, elevations, sections, interior and exterior materials, preliminary interior elevations
- Conceptual Grading and Drainage Plan, Architectural Renderings, Lighting Plan, Landscape Plan, as requested by local jurisdiction for planning approval.
- Outline Specifications
- Final Phasing Plan
- Geotechnical, topographical survey and utility survey (wet and dry services)
- Initial Design Development Presentation

- Final Design Development Presentation
- Colors and Materials Board

Meetings

- Up to (4) four design meetings to address specific design issues and to facilitate the decision-making process, additional meetings may be scheduled as needed.

Deliverables

- 50% and 100% submittals to include drawings, outline specifications and updated cost estimate.
- City of Desert Hot Springs Planning Submittal and Approval

CONSTRUCTION DOCUMENT PHASE

Construction Documents to include Architectural, Civil, Landscape, Electrical, Mechanical, Structural, Fire Protection, Interiors, Specifications, and details for MSWD and City Building Department review and approval.

- 50% Construction Document Review
- 75% Construction Document Review

Meetings

- Up to (3) three design meetings to address specific design issues and to facilitate the decision-making process, additional meetings may be scheduled as needed.

Deliverables

- 100% Construction Documents to include working drawings, specifications, cost estimate, color/material binder, and engineering calculations.
- City of Desert Hot Springs Design Review Submittal and Approval

BIDDING PHASE

Preparation of Final Bidding Documents and providing comments regarding bidding procedures including compilation and printing of bid documents for distribution to contractors.

- Prepare contract documents for bid.
- Review district bidding documents
- Assist district in advertisement, evaluating all bids and contract proposals, substitutions, and responding to bidder requests for information.

Deliverables

- Bid documents for distribution.
- Addenda as required during bidding phase.
- Bid Tabulation Spreadsheet

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- Prepare contract documents for bid.
- Review district bidding documents
- Assist district in advertisement, evaluating all bids and contract proposals, substitutions, and responding to bidder requests for information

Deliverables

- Bid documents for distribution.
- Addenda as required during bidding phase.
- Bid Tabulation Spreadsheet

CONSTRUCTION PHASE

Provide comprehensive construction administration services including field observation, documentation, coordination and correspondence

- Review contract documents with selected contractor
- Provide clarifications and interpretations to contract documents as required.
- Assist district in reviewing schedules, certificates of payment and change orders.

Meetings

- Attend Pre-construction meeting.
- Attend regular construction observation and Owner Architect Contractor meetings to monitor construction progress and provide interpretation of contract documents.

Deliverables

- Owner Architect Contractor Meeting minutes
- Construction Logs
- Issue Architect Field Orders as required
- Documentation and correspondence related to submittals, shop drawings, samples, change orders, requests for information and certification for payment.

CLOSEOUT PHASE

Provide final review of work for substantial completion and conformance with requirements of the Contract Documents

- Architect will review as-built documents provided by Contractor and update record drawings.

Meetings

- Attend Punch Walk

Deliverables

- Punch List
- Record Drawings

Project Fees:

Based on SOQ preliminary budget of \$15,600,000.

Project fee is based on 6.2% = **\$967,200**

This would include all basic consultants exclusive of an outside Cost consultant, and we would request added fees for the following:

Utility Survey:	\$10,000
Topographic Survey:	\$20,000
Cost Consultant:	
Feasibility (10%)	\$7,500
Schematic Design (15%)	\$11,250
Design Development (30%) -	\$22,500
Construction Documents (45%)	<u>\$33,750</u>
<u>Subtotal Added Fees</u>	<u>\$105,000</u>
Total A/E Fees	\$1,072,200

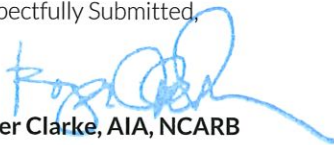
Fee divided by tasks and phases as follows:

- Tasks 1 & 2
 - o Feasibility Study (5%) - \$48,360
 - o Cost Consultant Feasibility \$7,500
 - o Schematic Design (10%) - \$96,720
 - o Cost Consultant Schematic \$11,250
 - o Design Development (15%) - \$145,080
 - o Cost Consultant Design Development \$22,500
 - o Utility Survey \$10,000
 - o Topographic Survey \$20,000

- Tasks 3,4 & 5
 - o Construction Documents (40%) - \$386,880
 - o Agency Approval (5%) - \$48,360
 - o Bidding Phase (3%) - \$29,016
 - o Construction Administration (20%) - \$193,440
 - o Cost Consultant Construction Documents \$33,750
 - o Closeout (2%) - \$19,344

Based on similar scope at East Valley Water District this preliminary budget may not be sufficient for the overall project masterplan. The above fee is based on the initial presented budget. We would propose to execute the project based on the 6.2% of construction cost.

Respectfully Submitted,



Roger Clarke, AIA, NCARB
President, Principal In Charge

Tel. 951.684.4664
Cell. 951.529.7715
Email. rclarke@ruhnaclarke.com



Exhibit B – Proposal provided by CONSULTANT



Exhibit C – Term, Early Termination & Notice

**Agreement for Professional Services
Mission Springs Water District
66575 Second Street
Desert Hot Springs, CA 92240
Telephone (760) 329-6448 - FAX (760) 329-2482**

Term, Early Termination & Notice

Codification of Resolutions and Ordinances

A. Term of Agreement

This professional services agreement shall be effective upon approval by the parties thereof and shall expire upon eight (8) from the contract signature date.

Early Termination of Agreement

This agreement may be terminated at any time upon two (2) week Notice from either party, and without fault or claim for damages by either party.

B. Notice

All correspondence and Notices will be sent to the following addresses as noted below for Mission Springs Water District and Koff & Associates.

OWNER

Attn: Arden Wallum
Mission Springs Water District
66575 Second Street
Desert Hot Springs, CA 92240

CONSULTANT

Attn: Roger Clarke, NCARB
Ruhnau Clarke Architects
3775 Tenth Street
Riverside, CA 92501