

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

For your protection, make sure that you read and understand all provisions before signing. The terms on pages 2 - 6 are incorporated in this document and will constitute a part of the agreement between the parties when signed.

TO: **Kenwood Energy**
PO Box 692
Kenwood, CA 95452

DATE: December 1, 2024

PROJECT DIR#: N/A

TITLE: **Construction Management Services for the Power Purchase Agreement**

The undersigned Consultant agrees to furnish the following:

All Work/Services per the attached Exhibit A – Scope of Work and Proposal provided by Kenwood Energy, and in accordance with Exhibit B – Term, Early Termination & Notice

Contract price \$: Not to Exceed \$100,547.52

Term: One (1) year from the effective date above

Instructions: Sign and return via email. Upon acceptance by Mission Springs Water District, (sometimes referred to herein as "District") a copy will be promptly returned to you. Insert the names of your authorized representative(s) below.

Accepted:
Mission Springs Water District

Consultant:
Kenwood Energy
(Business Name)

By: 
Brian E. Macy, PE

By: 
Tim Holmes

Title General Manager

Title Principal

Other authorized representative(s):
Danny Friend
Director of Operations

Other authorized representative(s):

Amanda Lucas
Contracts Analyst

Consultant agrees with the Mission Springs Water District that:

- a. When the law establishes a professional standard of care for Consultant's 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 against any and all liability from all claims and demands of all persons that arise out of, pertain to, or relate to the Consultant's negligence, recklessness, or 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. The 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. **Verification of Coverage** – Consultant shall furnish the District with certificates and amendatory endorsements, or copies of the applicable policy language affecting coverage required by this clause. All certificates and endorsements are to be received and approved by the District before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including policy Declaration pages and Endorsement pages.
- f. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries or death to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, his agents, representatives, employees, or sub-consultants. 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 shall be at least as broad as the following:

1. **Commercial General Liability (CGL)** - Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 00 01) including products and completed operations, property

damage, bodily injury, personal and advertising injury with limit of at least 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. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (coverage as broad as ISO CG 25 03, or ISO CG 25 04 endorsements provided to District), or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability** - Insurance Services Office (ISO) Business Auto Coverage (Form CA 00 01), covering Symbol 1 (any auto) or if the Consultant has no owned autos, Symbol 8 (hired) and 9 (non-owned) with limit of one million dollars (\$1,000,000) for bodily injury and property damage each accident.
3. **Workers' Compensation Insurance** - as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. **Waiver of Subrogation:** The insurer(s) named above agree to waive all rights of subrogation against the Mission Springs Water District, its elected or appointed officers, officials, agents, authorized volunteers and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for the Agency; but this provision applies regardless of whether or not the Mission Springs Water District has received a waiver of subrogation from the insurer. Consultant 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 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. Sole proprietors with no employees, acknowledge that they are not subject to the Workers' Compensation Act of the State of California and agree to complete a signed workers compensation exemption form.

If Claims Made Policies:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the District requires and shall be entitled to the broader coverage and/or higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District.

Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Mission Springs Water District.

Self-Insured Retentions - Self-insured retentions must be declared to and approved by the Mission Springs Water District. The Mission Springs Water District may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Member Water Agency.

Required Provisions:

- **Additional Insured Status:** Mission Springs Water District, its directors, officers, employees, and authorized volunteers or using the language that states "as required by written contract." are to be given insured status (at least as broad as ISO Form CG 20 10 01), with respect to liability arising out of work or operations performed by or on behalf of the

Consultant including materials, parts, or equipment furnished in connection with such work or operations.

- **Primary Coverage:** For any claims related to this project, the consultant's insurance coverage shall be primary at least as broad as ISO CG 20 01 04 13 as respects to the District, its directors, officers, employees, and authorized volunteers. Any insurance or self-insurance maintained by the District its directors, officers, employees, and authorized volunteers shall be in excess of the Consultant's insurance and shall not contribute with it.
 - Consultant shall require and verify that all sub-consultants maintain insurance meeting all requirements stated herein, and Consultant shall ensure that Mission Springs Water District its directors, officers, employees, and authorized volunteers are an additional insured on Commercial General Liability Coverage.
 - 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.
- g. 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.
- h. 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)."
- i. Payment, unless otherwise specified on Page 1, is to be within thirty (30) days after acceptance by Mission Springs Water District.
- j. Consultant hereby specifically represents and warrants to District that it possesses the qualifications and skills necessary to perform the services under this agreement in a competent and professional manner, without the advice or direction of District and that the services to be rendered pursuant to this agreement shall be performed in accordance with the standards customarily applicable to an experienced and competent professional rendering the same or similar services in the state of California. Consultant further represents and warrants that it possesses all required licenses necessary or applicable to the performance of the services under this agreement. 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.
- k. 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.
- l. Unless otherwise agreed upon in writing, all reports, documents, or other written material, including any documents, images, photographs, video files, or other media created or developed by Consultant as part of the services required hereunder ("Written Products") shall be considered to be "works made for hire", and all Written Products and any and all intellectual property rights arising from their creation, including, but not limited to, all copyrights and all other proprietary rights, shall be and remain the property of Mission Springs Water District without restriction or limitation upon their use, duplication or dissemination by Mission Springs Water District, except as otherwise provided herein. The Consultant shall not obtain or attempt to obtain copyright protection as to any of the Written Products.
- m. District shall hold all intellectual property rights to any data, materials, digital information, and Written Products stored and/or developed pursuant to this agreement. Consultant hereby assigns to Mission Springs Water District all ownership and any and all intellectual property rights to the data, materials, digital information and Written Products that are not otherwise vested in Mission Springs Water District pursuant to section above.

- n. 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.
- o. 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.
- p. 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.
- q. Consultant shall not maintain, commit, or permit the maintenance or commission of any nuisance in connection with the performance of services under this Agreement.
- r. 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 subconsultants 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 subconsultants to abstain from a decision under this Agreement pursuant to a conflict-of-interest statute.
- s. 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.
- t. 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.
- u. 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.
- v. 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.
- w. 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.

- x. 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.
- y. 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.
- z. 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.
- aa. 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.
- bb. 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.
- cc. Consultant will act hereunder as an independent consultant. 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.
- dd. 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.
- ff. In the event the Consultant performs additional or different services than those described herein without the prior written approval of the Contract Manager, Consultant shall not be compensated for such services. Consultant expressly waives any right to be compensated for services and materials not covered by the scope of this Agreement or authorized by the District in writing.
- gg. Consultant shall promptly advise the Contract Manager as soon as reasonably practicable upon gaining knowledge of a condition, event or accumulation of events which may affect the scope and/or cost of Services. All proposed changes, modifications, deletions and/or requests for additional services shall be reduced to writing for review and approval by the District.
- hh. Consultant shall perform all services in accordance with the terms and conditions of this agreement and the proposal. In the event that the terms of the proposal conflict with the terms of this agreement or contain additional terms that purport to bind the District, the terms of this agreement shall govern and said additional or conflicting terms shall be of no force or effect.

EXHIBIT A

Mission Springs Water District (MSWD) Kenwood Energy Scope of Work

Kenwood Energy (KE) has been supporting MSWD in the development, contracting, and performance design of MSWD's Solar Power Purchase Project. The original contract between KE and MSWD was to develop a Request for Proposals and support the negotiation of the Power Purchase Agreement (PPA)

KE proposes the following scope of work (SOW) to provide ongoing support to MSWD through the end of construction, which is scheduled to be complete by the end of 2025.

1. Meetings:
 - a. Weekly Construction meeting: discuss designs, schedules, critical path items, requests for information (RFI), invoices, change order (CO) requests, etc.
 - b. Weekly MSWD internal Team meeting to discuss the same.
 - c. Miscellaneous meetings as needed including Board support.
2. Review Design Documents:
 - a. Comment on design packages
 - b. Respond to RFIs and COs and how they are addressed in the contract and attachments
 - c. Review Invoices for accuracy
3. Post Construction:
 - a. Onsite meeting for punch-list and operational issues
 - b. Invoice and savings analysis for two billing cycles.

FEES

Kenwood Energy proposes to bill on an hourly basis. KE's hourly rates are:

Senior Engineer	\$225.00 per hour
Senior Analyst	\$185.00 per hour

Estimate

Task	Sub-Task	Senior Eng - Hours	Sen Analyst - Hours	Cost
1	Weekly Meetings	64.95	64.95	\$26,629.50
2	Weekly MSWD Meetings	64.95	62.5	\$26,176.25

3	Miscellaneous meetings	30	30	\$12,300.00
4	Design Review	21	7	\$6,020.00
5	RFI, CO, Invoice Review	32.475		\$7,306.88
6	Onsite meetings, Inspections, Performance	40		\$9,000.00
7				
8				
			Subtotal	\$87,432.63
			Contingency	15%
			Contingency	\$13,114.89
			Total	\$100,547.52

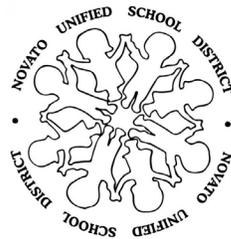
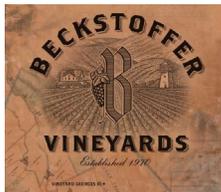
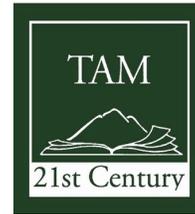
Costs include expenses. Kenwood Energy will submit monthly progress payment invoices. Payments shall be made within 30 days of receiving Kenwood Energy's invoice.

Company Overview

Kenwood Energy is an energy management consulting firm that acts as an advocate for our customers, serving as a source of independent information and guidance that enables customers to make informed decisions for achieving their goals related to energy use, GHG emissions and sustainability.

The services offered by Kenwood Energy fall into four categories:

- **Energy Management** – Our energy management services focus on the development of comprehensive energy assessments and plans, with expertise that includes lighting, refrigeration, pumping, fans, air conditioning, heating, hot water, and manufacturing processes. Our assessments include technical and financial parameters that identify payback periods and cost, allowing our clients to make more informed implementation decisions.
- **Renewable Energy Generation** – We formulate sophisticated energy output projections and feasibility analyses to assess renewable energy options for our clients. We provide technical expertise to support implementation by developing Requests for Proposals and construction specifications, aiding in vendor selection after the evaluation of proposals, and providing support and supervision during installation. We have extensive experience with solar electricity, solar thermal, wind, fuel cells, battery storage, and conventional cogeneration.
- **Sustainability** – Kenwood Energy has been helping customers reduce their environmental footprint while improving reliability and reducing operating costs. We have supported our customers in reducing and quantifying their greenhouse gas (GHG) emissions and developing Action Plans that define how targets will be reached, reported, and tracked. We also support our customers in the application of Energy Storage Systems (ESS) and microgrids to isolate them from planned and unplanned utility outages.
- **Energy Modeling** – Models developed by Kenwood Energy evaluate detailed energy consumption information in combination with relevant rates, reflecting not only differences between traditional utility providers but also the impact of Community Choice Aggregation (CCA) entities. Within rate categories, our models adjust for specifics such as seasonal changes, time-of-use differences, non-bypassable charges, and the power charge indifference adjustment (PCIA). The electricity rates are updated as needed, corresponding with published changes made by the relevant utility or CCA.
 - On-site renewable energy: our model includes detailed area specific weather profiles, and evaluate the impacts of programs such as net-energy metering, aggregated net metering, and lesser-known options such as the Renewable Energy Self-Generation Bill Credit Transfer program (RES-BCT) for local governments.
 - On-site ESS: building on the renewable energy model, this model captures detailed battery performance parameters and optimizes system sizing in light of customer energy use and goals, such as reliability, peak energy reduction or overall cost savings.



San Lorenzo Unified School District



EXHIBIT B

Term, Early Termination & Notice

Construction Management Services for the Power Purchase Agreement

A. Term of Agreement

This professional services agreement shall be effective upon approval by the parties thereof and shall expire upon one (1) year from the effective Agreement DATE therein. This contract also terminates and replaces any previous agreements between the District and Kenwood Energy for Construction Management Services for the Power Purchase Agreement in force prior to the effective date of this agreement.

B. Early Termination of Agreement

This agreement may be terminated at any time upon thirty (30) days' written notice from either party, and without fault or claim for damages by either party.

C. Notice

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

OWNER

Attn: Brian E. Macy, PE
Mission Springs Water District
66575 Second Street
Desert Hot Springs, CA 92240

CONTRACTOR

Attn: Tim Holmes
Kenwood Energy
PO Box 692
Kenwood, CA 95452