



Mountain House Community Services District
230 S. Sterling Drive, Suite 100, Mountain House, CA 95391
Tel (209) 831-2300 • Fax (209) 831-5610
www.mountainhousecsd.com

CONSTRUCTION AGREEMENT

CONTRACT ID # A-1819-21

DATE: June 12, 2019

PARTIES: MHCS D: Mountain House
Community Services District
230 S. Sterling Dr, Suite 100
Mountain House, CA 95391

CONTRACTOR: Pavement Coatings Co.
2150 Bell Avenue, Suite 125
Sacramento, CA 95838

The Parties agree as follows:

1. Priority of Documents

Each of the items listed below is hereby incorporated into this Agreement by this reference. In the event of an inconsistency in this Agreement, the inconsistency shall be resolved by giving precedence in the following order:

- A. Applicable Federal and State of California statutes and regulations, this Agreement and its exhibits.
- B. CONTRACTOR'S Proposal dated May 23, 2019

2. Scope of Professional Contract:

CONTRACTOR agrees to provide pavement repairs, per the "Mountain House Altamont and Bethany Village Pavement Repair" project specification attached.

3. Term of Agreement:

This Agreement shall commence on the date of execution by the MHCS D Board of Directors, and continue until June 30, 2020, unless said work is completed on a date prior thereto or unless terminated earlier as provided herein.

4. Compensation:

The compensation shall not exceed the amount of \$1,424,755.50 for services performed pursuant to this Agreement.

5. Invoicing:

CONTRACTOR shall submit one original and one copy of each invoice to the MHCS D, 230 S. Sterling Drive, Suite 100, Mountain House, CA 95391. All invoices must reference this Contract ID Number, the service performed and the Federal Tax Payer Identification Number. Payments will be made against invoices as submitted. Payments shall be made within 30 days of receipt of invoice from CONTRACTOR.

6. CONTRACTOR's Status:

In the performance of work, duties and obligations imposed by this Agreement, the CONTRACTOR is at all times acting as an Independent Contractor practicing his or her profession and not as an employee of the MHCS D. CONTRACTOR shall perform the CONTRACTOR's work in accordance with currently approved methods and standards of practice in the CONTRACTOR's professional specialty. A copy of CONTRACTOR's current business license shall be provided to MHCS D. The CONTRACTOR shall not have any claim under this Agreement or otherwise against the DISTRICT for vacation, sick leave, retirement benefits, social security or worker's compensation benefits. The CONTRACTOR shall be responsible for federal and state payroll taxes such as social security and unemployment. MHCS D will issue a form 1099 at year-end for fees earned.

7. Assignments:

Inasmuch as this Agreement is intended to secure the specialized services of the CONTRACTOR, CONTRACTOR may not assign, transfer, delegate or subcontract their obligation herein without the prior written consent of MHCS D. Any such assignment, transfer, delegation or subcontract without the prior written consent shall be considered null and void.

8. Non-Exclusive Rights:

This Agreement does not grant to CONTRACTOR any exclusive privileges or rights to provide services to MHCS D. CONTRACTOR may contract with other counties, private companies or individuals for similar services.

9. Indemnification:

The CONTRACTOR agrees to defend, indemnify and hold harmless the DISTRICT, its officers, agents, employees and volunteers for any and all liability to the extent caused by

the negligence, recklessness or willful wrongful act of the CONTRACTOR arising out of the performance of this agreement, and to pay all claims, damages, judgments, legal costs, adjuster fees and attorney fees relating thereto. This indemnity obligation extends to CONTRACTOR's proportionate share of liability resulting from all negligent, reckless or willfully wrongful acts, errors or omissions, and active and/or passive negligence by the CONTRACTOR and excludes the negligence, recklessness or willful wrongful acts of MHCS D.

10. Insurance:

CONTRACTOR, if required to work on MHCS D property during the contract period, shall submit proof of insurance to MHCS D showing Mountain House Community Services District, its officers, agents and employees named as Additional Insured and insurance policy shall contain provisions that such policy may not be canceled except after thirty (30) days written notice to the MHCS D, ten (10) days' notice if cancellation is due to nonpayment of premium.

CONTRACTOR agrees that CONTRACTOR is responsible to insure that the requirements set forth in this article/paragraph are also be met by CONTRACTOR'S subcontractors/consultants who provide services pursuant to this Agreement. Copies of insurance certificates shall be filed with the MHCS D.

General Liability Limits

1.	BI & PD combined/per occurrence	\$1,000,000
	/Aggregate	\$1,000,000
2.	Personal Injury/Aggregate	\$1,000,000

Workers' Compensation and Employer's Liability requirement Statutory

11. Discrimination:

CONTRACTOR shall not discriminate against any individual based on race, color, religion, nationality, sex, age, or handicap condition.

12. Notices:

Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be effected by personal delivery or by first class mail, registered or certified, postage prepaid, return receipt requested. Unless otherwise designated by either party in writing, such notices shall be mailed as shown on Page 1.

13. Termination:

If the CONTRACTOR breaches or habitually neglects the CONTRACTOR's duties under this Agreement without curing such breach or neglect upon fifteen (15) working days written notice, the MHCS D may, by written notices, immediately terminate this Agreement without prejudice to any other remedy to which MHCS D may be entitled, either at law, in equity, or under this Agreement. In addition, either party may terminate this Agreement upon sixty (60) days written notice to other party. Failure to perform work under this Agreement may be the grounds for MHCS D to execute the bonds to complete the project or to pay any obligations by the CONTRACTOR.

14. Conflict of Interest Statement:

CONTRACTOR covenants that CONTRACTOR, its officers or employees or their immediate family, presently has no interest, including, but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement no person having any such interest shall be employed or retained by CONTRACTOR under this Agreement. CONTRACTOR shall not hire MHCS D's employees to perform any portion of the work or services provided for herein including secretarial, clerical and similar incidental services except upon the written approval of MHCS D. Performance of services under this Agreement by associates or employees of CONTRACTOR shall not relieve CONTRACTOR from any responsibility under this Agreement.

15. Drug Free Workplace:

CONTRACTOR shall comply with the provisions of Government Code Section 8350 et seq., otherwise known as the Drug-Free Workplace Act.

16. Force Majeure

It is agreed that neither party shall be responsible for delays in delivery or acceptance of delivery or failure to perform when such delay or failure is attributable to Acts of God, war, strikes, riots, lockouts, accidents, rules or regulations of any governmental agencies or other matters or conditions beyond the control of either the seller/contractor or the purchaser.

17. Compliance:

CONTRACTOR shall comply with all Federal, State and local laws, regulations and requirements necessary for the provision of contracted services. Furthermore, CONTRACTOR shall comply with all laws applicable to wages and hours of employment, occupational safety, and to fire safety, health and sanitation. CONTRACTOR shall maintain current throughout the life of this Agreement, all permits, licenses, certificates and insurances that are necessary for the provision of contracted services

18. Form Law:

The Laws of the State of California shall govern this Agreement. Venue is San Joaquin County. The provision of this paragraph shall survive expiration or other termination of this Agreement regardless of the cause of such termination.

19. Documents:

All drawings, specifications, documents and other memoranda or writings relating to the work and services hereunder, shall remain or become the property of the MHCSD whether executed by or for the CONTRACTOR for MHCSD, or otherwise by or for the CONTRACTOR, or by or for a subcontractor operating under the CONTRACTOR'S supervision, or direction, and all such documents and copies thereof shall be returned or transmitted to MHCSD forthwith upon termination or completion of the work under this Agreement.

The contract consists of the following documents to wit:

- a. Notice to Bidders
- b. Bid
- c. This Contract
- d. The Project Plans and Specifications
- e. Standard Specifications, Department of Transportation, State of California, dated 2010 with revisions in effect at time of project advertisement.
- f. Standard Plans, Department of Transportation, State of California, dated 2010 with revisions in effect at time of project advertisement.
- g. General Prevailing Wage Rates, Department of Transportation, State of California
- h. Labor surcharge and equipment rental rates, Department of Transportation, State of California
- i. All Addenda (if any)

20. Entire Agreement and Modification:

This Agreement supersedes all previous Agreements either oral or in writing and constitutes the entire understanding of the parties hereto. No changes, amendments or alterations shall be effective unless in writing and signed by both parties.

IN WITNESS WHEREOF, MHCSD and CONTRACTOR have executed this Agreement on the day and year first written above.

Pavement Coatings Co.
2150 Bell Avenue, Suite 125
Sacramento, CA 95838

Mountain House
Community Services District,
a political subdivision of
the State of California


By: 
Contractor Dale Ford, PRESIDENT

By: 
Sarah Ragsdale
Interim General Manager

Date: 05/30/2019

Date: 6/12/19

Approved as to Form:

By: 
John Bakker
Interim General Counsel