



230 S. STERLING DRIVE, SUITE 100, MOUNTAIN HOUSE, CA 95391  
(209) 831-2300 • (209) 831-5610 FAX

## CONTRACTOR AGREEMENT

**CONTRACT ID # 00472**

DATE: August 1, 2018

PARTIES:	MHCSD:	Mountain House Community Services District 230 S. Sterling Dr, Ste 100 Mountain House, CA 95391
	CONTRACTOR:	Tracy Grading & Paving, Inc. 11 W. 12 <sup>th</sup> Street Tracy, CA 95376

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 Proposals (2) dated July 25, 2018.

2. Scope of Professional Services:

CONTRACTOR agrees to provide Sidewalk Removal and Replacement, per Scope of Service attached.

3. Term of Agreement:

This Agreement shall commence on the date of execution by the MHCSD General Manager, and continue until June 30, 2019, 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 \$5,618.50 for services performed pursuant to this Agreement. Payments shall be made within 30 days of receipt of invoice from CONTRACTOR.

5. Invoicing:

CONTRACTOR shall submit one original and one copy of each invoice to the MHCSD, 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. Each invoice shall also identify (1) total contract amount (\$), (2) expenses to date (\$), (3) remaining funds per contract (\$), and (4) total amount due per invoice (\$). Payments will be made against invoices as submitted.

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 MHCSD. 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 MHCSD. 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. MHCSD 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 MHCSD. 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 MHCSD. CONTRACTOR may contract with other agencies, private companies or individuals for similar services.

9. Indemnification, Hold Harmless and Defense:

To the fullest extent permitted by law, CONTRACTOR shall indemnify, hold harmless and defend the DISTRICT, its directors, officers, employees, agents and authorized volunteers, and each of them (collectively referred to as "DISTRICT Indemnified Parties") from and against any and all claims, demands, causes of action, damages, penalties, judgments, awards, decrees, costs, expenses, attorneys' fees, losses or liabilities, in law or in equity, of every kind or nature, including but not limited to personal injury, bodily injury, wrongful death, and property damage including any damage to the DISTRICTS property, arising out of CONTRACTOR's alleged negligence, or wrongful acts related to or in connection with CONTRACTOR'S performance of duties under the terms and conditions of this AGREEMENT.

To the fullest extent permitted by law, DISTRICT shall indemnify, hold harmless and defend the CONTRACTOR, its directors, officers, employees, agents and each of them (collectively referred to as "CONTRACTOR Indemnified Parties") from and against any and all claims, demands, causes of action, damages, penalties, judgments, awards, decrees, costs, expenses, attorneys' fees, losses or liabilities, in law or in equity, of every kind or nature, including but not limited to personal injury, bodily injury, wrongful death, and property damage including any damage to the CONTRACTOR's property, arising out of DISTRICT's alleged negligence, or wrongful acts related to or in connection with DISTRICT's performance of duties under the terms and conditions of this AGREEMENT.

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 /Aggregate	\$1,000,000 \$1,000,000
2.	Personal Injury/Aggregate	\$1,000,000
3.	Professional Liabilities	\$1,000,000

*Workers' Compensation and Employer's Liability* Statutory requirement

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.

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 MHCS D whether executed by or for the CONTRACTOR for MHCS D, 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 MHCS D forthwith upon termination or completion of the work under this Agreement.

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, MHCS D and CONTRACTOR have executed this Agreement on the day and year first written above.

Tracy Grading & Paving, Inc.  
11 W. 12<sup>th</sup> Street  
Tracy, CA 95376

By:  \_\_\_\_\_

Contractor

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

By:  \_\_\_\_\_

Edwin R. Pattison  
General Manager

Date: 7-31-18