



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

CONTRACTOR AGREEMENT

CONTRACT ID # A-2021-13

DATE: July 28, 2020

PARTIES:	MHCSD:	Mountain House Community Services District 251 E. Main Street Mountain House, CA 95391
	CONTRACTOR:	BrightView Landscape Services, LLC P.O. Box 57515 Los Angeles, Ca 90075-7515

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 July 23, 2020.

2. Scope of Professional Services:

CONTRACTOR agrees to provide Landscape Inspection Services, per attached Scope of Service ("Work").

3. Term of Agreement:

This Agreement shall commence on the date of execution by the MHCS D General Manager, and continue until June 30,2021, 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 \$105,000_ for services performed pursuant to this Agreement. Payments shall be made within 30 days of receipt of invoice from CONTRACTOR.

5. Standard of Performance:

CONTRACTOR shall perform all Work in a first-class manner in conformance with the standards of quality normally observed by a person practicing in CONTRACTOR's profession.

6. Inspection:

All Work performed and materials (if any) provided by CONTRACTOR shall be subject to inspection and approval by MHCS D.

7. Contractor's Warranties and Guarantee:

CONTRACTOR warrants to MHCS D that all materials and equipment furnished under this Agreement will be new unless District agrees otherwise in writing, and that all Work will be of good quality, free from faults and defects and in conformance with this Agreement. All Work not so conforming to these standards may be considered defective. If required by MHCS D, the CONTRACTOR shall furnish to MHCS D satisfactory evidence as to the kind and quality of materials, equipment and methods of installation by the CONTRACTOR.

CONTRACTOR shall guarantee the Work to be free of defects in material and workmanship for a period of one (1) year following MHCS D's acceptance of the Work ("Contractor's Guarantee"). As part of Contractor's Guarantee, CONTRACTOR agrees to make, at CONTRACTOR's sole cost and expense, all repairs or replacements made necessary by defects in material or workmanship which become evident within the one-year guarantee period.

8. Invoicing:

CONTRACTOR shall submit one original and one copy of each invoice to: MHCS D, 251 E. Main Street, 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.

9. 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 MHCSO. 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 MHCSO. The CONTRACTOR shall not have any claim under this Agreement or otherwise against MHCSO 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. MHCSO will issue a form 1099 at year-end for fees earned.

10. 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 MHCSO. Any such assignment, transfer, delegation or subcontract without the prior written consent shall be considered null and void.

11. Non-Exclusive Rights:

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

12. 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 represents and warrants that CONTRACTOR possesses all licenses, permits, and qualifications legally required for the performance of the Work. CONTRACTOR shall, at CONTRACTOR's sole cost and expense, maintain all such licenses, permits and qualifications in full force and effect throughout the term of this Agreement.

(Continued on next page)

13. Indemnification, Hold Harmless and Defense:

To the fullest extent permitted by law, CONTRACTOR shall indemnify, hold harmless and defend MHCS D, its directors, officers, employees, agents and authorized volunteers, and each of them, 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 MHCS D's 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, MHCS D 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 MHCS D's alleged negligence, or wrongful acts related to or in connection with MHCS D's performance of duties under the terms and conditions of this Agreement.

14. 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. 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 CONSULTANT'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
3.	Professional Liabilities	\$1,000,000

Workers' Compensation and Employer's Liability Statutory requirement

15. Discrimination:

CONTRACTOR shall not discriminate in the provision of service or in the employment of persons engaged in the performance of this Agreement on account of race, color, national origin, ancestry, religion, gender, marital status, sexual orientation, age, physical or mental disability in violation of any applicable local, state or federal laws or regulations.

16. 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 the first page of this Agreement.

17. 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 notice, 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.

18. 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.

19. Drug Free Workplace:

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

20. 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.

21. 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.

22. 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.

23. Attorneys' Fees:

If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which such party may be entitled.

24. Waiver:

No waiver of any breach of any covenant or provision of this Agreement shall be deemed a waiver of any other covenant or provision hereof, and no waiver shall be valid unless in writing and executed by the waiving party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act, and no extension shall be valid unless in writing and executed by the waiving party.

25. No Third Party Beneficiaries:

Nothing contained in this Agreement is intended to or shall be deemed to confer upon any person, other than the parties, any rights or remedies hereunder.

26. Headings:

The headings of the sections and exhibits of this Agreement are inserted for convenience only. They do not constitute part of this Agreement and are not to be used in its construction.


27. Non-Liability of Officials, Employees and Agents:

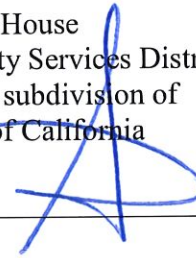
No officer, official, employee or agent of District shall be personally liable to CONTRACTOR in the event of any default or breach by District or for any amount which may become due to CONTRACTOR pursuant to this Agreement.

28. 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.

Contractor

By: _____
Contractor

Mountain House
Community Services District,
a political subdivision of
the State of California
By:  _____
Steven J. Pinkerton
General Manager

Date: 8/21/20 _____

Approved as to Form:

By: _____

John Bakker
Interim General Counsel

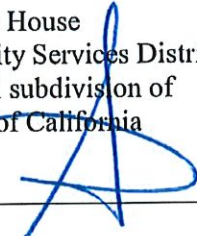
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Contractor

By: _____
Contractor

Mountain House
Community Services District,
a political subdivision of
the State of California
By:  _____
Steven J. Pinkerton
General Manager

Date: 8/21/20 _____

Approved as to Form:

By:  _____
John Bakker
Interim General Counsel





BrightView 

Landscape Inspection Services

July 23, 2020

Michael Underwood



**Mountain House Community
Services District**



July 23, 2020

Mr. Anush Nejad
Community Development Director
Mountain House CSD
251 East Main Street
Mountain House, CA 95391

Dear Mr. Nejad

Thank you for the opportunity to submit a proposal to provide on call professional landscape inspection and consulting services to the Mountain House Community Services District (MHCS D). The fiscal year's (Sept. 1, 2020 through June 30, 2021) inspection and consulting services are proposed to provide the use of a primary inspector as a day to day contract to be directed by the MHCS D. If needed, additional services such as laboratory testing, sub consultants and specialists are also available upon request at the rates provided in this proposal.

A. Description of On Call Services – Primary Inspector

- **Landscape Audits:** Plan and specifications cross checking with field installations. Plant quality inspections, basic irrigation system audits with visual coverage tests.
- **Plan Review:** Review final landscape and irrigation construction plans to provide recommendations. ***Final plan approval to be provided by others***
- **Administrative Duties:** Contractor, developer, and MHCS D meeting attendance. Basic report submittal, noting any found deficiencies, meeting notes, or progress reports.

Alternate inspectors will be made available in the absence of the assigned primary. A schedule of inspector coverage will be provided two weeks in advance

- I. **Primary Inspector** – Jeff Gillespie
- II. **Alternate Inspector** – Leonel Vasquez
- III. **Alternate Inspector** – Loren Olson



B. Professional On Call Service's Budget - Primary Inspector

Based upon the MHCS D description of projects, we propose the following estimated budget for inspector services through September 1st, 2020 through June 30th, 2021.

Item	Unit Cost	Estimated Budget
Primary Inspector	\$68 per hour	\$105,000

PRIMARY INSPECTOR RATE EXCLUDES: Printing, reprographics, postage and courier services. Testing equipment rental (if needed), laboratory services. Sub consultants, specialists or additional labor (if needed). Please see provided rate schedule for additional services.

C. Rate Schedule for Additional Services

*This rate schedule for BrightView Landscape Services is valid through June 30, 2021

Hourly Rates for Additional Services

<u>Classification</u>	<u>Hourly Rate</u>
Landscape Architect.....	\$200.00
Senior Designer	\$155.00
Horticulturist	\$150.00
Arborist.....	\$150.00
Designer.....	\$120.00
Assistant Designer	\$110.00
Draftsperson.....	\$98.00
Administrative Assistant.....	\$92.00
Irrigation auditor	\$90.00
Irrigation specialist	\$75.00

Reimbursable Expenses

Reimbursable Expenses are additional costs to the provided hourly rates:

Sub-Consultants.....	cost plus 15%
Printing and reprographics	cost plus 15%
Postage and courier service.....	cost plus 15%
Testing equipment rental.....	cost plus 15%
Laboratory testing	cost plus 15%

D. Inclusions and Exclusions

- I. All rates include direct salary costs, salary additives, indirect costs, overhead costs, and fixed-fee or profits associated with performing service, cell phones, personal safety equipment, vehicle mileage, fuel and computer use.
- II. The hourly rates do not include sub-consultants other than *Dutchover & Associates*, printing and reprographic services, postage, courier service, testing equipment rental, and laboratory testing, and other reimbursable expenses that may be requested by the Mountain House CSD.

There may be a need to increase the above noted estimated budget for the primary inspector, as well for additional services which may be requested. All work will be performed as authorized by the MHCSD.

If this proposal meets your approval, please provide us with the MHCSD's standard contract agreement. Let me know if you have any questions or would like to meet to discuss. Once again, we thank you for the opportunity to provide professional landscape inspection and consulting services to the MHCSD.

Sincerely,



Michael Underwood

VP Regional Manager

Development Projections:

Project Summary

Developer	Fund	Amount
Century	TFF	\$31,500
Century	Non-Reimbursable	\$21,000
Century	CIP	\$7,500
Meritage	Non-Reimbursable	\$7,500
Meritage	TFF	\$7,500
MHD	TFF	\$7,500
MHD	Non-Reimbursable	\$7,500
MHD	CFF	\$7,500
Shea	TFF	\$7,500
TOTAL		\$105,000