



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

CONSULTANT AGREEMENT

CONTRACT ID # A-2021-26

DATE: February 16, 2021

PARTIES:	MHCSD:	Mountain House Community Services District 251 E. Main Street Mountain House, CA 95391
	CONSULTANT:	Carlson, Barbee & Gibson, Inc. 2633 Camino Ramon, Suite 350 San Ramon, CA 94583

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. CONSULTANT'S Proposal dated December 10, 2020

2. Scope of Professional Services:

CONSULTANT agrees to provide preparation of a Topographic Survey and Environmental Services for MH Creek, per attached Scope of Service ("Work").

3. Term of Agreement:

This Agreement shall commence on the date of execution by the MHCSD 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 \$49,500 for services performed pursuant to this Agreement. Payments shall be made within 30 days of receipt of invoice from CONSULTANT.

5. Standard of Performance:

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

6. Inspection:

All Work performed and materials (if any) provided by CONSULTANT shall be subject to inspection and approval by MHCSD.

7. Invoicing:

CONSULTANT shall submit one original and one copy of each invoice to: MHCSD, 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.

8. Consultant's Status:

In the performance of work, duties and obligations imposed by this Agreement, the CONSULTANT is at all times acting as an Independent Contractor practicing his or her profession and not as an employee of the MHCSD. CONSULTANT shall perform the CONSULTANT's work in accordance with currently approved methods and standards of practice in the CONSULTANT's professional specialty. A copy of CONSULTANT's current business license shall be provided to MHCSD. The CONSULTANT shall not have any claim under this Agreement or otherwise against MHCSD for vacation, sick leave, retirement benefits, social security or worker's compensation benefits. The CONSULTANT 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.

9. Assignments:

Inasmuch as this Agreement is intended to secure the specialized services of the CONSULTANT, CONSULTANT 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.

10. Non-Exclusive Rights:

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

11. Compliance:

CONSULTANT shall comply with Federal, State and local laws, regulations and requirements necessary for the provision of contracted services. Furthermore, CONSULTANT shall comply with all laws applicable to wages and hours of employment, occupational safety, and to fire safety, health and sanitation.

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

12. Indemnification, Hold Harmless and Defense:

To the fullest extent permitted by law, CONSULTANT 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, reasonable 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 CONSULTANT's alleged negligence, or wrongful acts related to or in connection with CONSULTANT'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 CONSULTANT, its directors, officers, employees, agents and each of them (collectively referred to as "CONSULTANT Indemnified Parties") from and against any and all claims, demands, causes of action, damages, penalties, judgments, awards, decrees, costs, expenses, reasonable 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 CONSULTANT'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.

13. Insurance:

CONSULTANT, 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.

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

<i>Workers’ Compensation and Employer’s Liability</i>	Statutory requirement
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14. Discrimination:

CONSULTANT 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.

15. 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.

16. Termination:

If the CONSULTANT breaches or habitually neglects the CONSULTANT’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.

17. Conflict of Interest Statement:

CONSULTANT covenants that CONSULTANT, 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. CONSULTANT further covenants that in the performance of this Agreement no person having any such interest shall be employed or retained by CONSULTANT under this Agreement. CONSULTANT 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 CONSULTANT shall not relieve CONSULTANT from any responsibility under this Agreement.

18. Drug Free Workplace:

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

19. 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.

20. 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.

21. 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 CONSULTANT for MHCS D, or otherwise by or for the CONSULTANT, or by or for a subcontractor operating under the CONSULTANT'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.

22. 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.

23. 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.

24. 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.

25. 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.

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

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

27. 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 CONSULTANT have executed this Agreement on the day and year first written above.

Consultant

DocuSigned by:
Andrea Bellanca
By: _____
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Consultant

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

DocuSigned by:
Steve Pinkerton
By: _____
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Steven J. Pinkerton
General Manager

Date: 2/20/2021



CIVIL ENGINEERS • SURVEYORS • PLANNERS

November 20, 2020

Job No.: 0673-120

Revised: December 17, 2020

Proposal to Provide
Civil Engineering Services

**Mountain House Parkway
Topographic Survey
San Joaquin County, California**

<u>Description of Work</u>	<u>Estimated Fee</u>
I. Survey	
A. Aerial Topographic Survey	\$ 14,200
1. Prepare a 1" = 40' scale aerial topographic survey with one-foot contour interval of Mountain House Creek. Limits of work are from Great Valley Parkway in the south, to Central Parkway in the north and extend to both sides of the Creek corridor. Approximately 6,600 LF. (75 acres)	
B. Supplemental Field Topo	\$ 14,780
1. Perform supplemental field topo of basins/ponds to accurately detail terrain below the water surface.	
Project Surveyor 4 hours @ \$ 185	
Party Chief 32 hours @ \$ 185	
Chainman 32 hours @ \$ 100	
2. Compile field topo for inclusion with aerial topography.	
Principal 2 hours @ \$ 240	
Project Engineer 24 hours @ \$ 185	
II. Environmental Delineation	
A. See attached scope from ECROP Consulting.	\$ 17,000
B. Subconsultant Management Fee (10%)	\$ 1,700
III. Reimbursables	(Cost +10%)
A. Printing and Computer Plots.	
B. UPS and Delivery Services.	
C. Acquisition of Record Materials.	
D. Mileage, Tolls and Parking.	

**Total \$ 47,680
Plus Reimbursables**



Mountain House Parkway

Page 2 of 2

November 20, 2020

Job No.: 0673-120

Revised: December 17, 2020

Description of Work

IV. Assumptions

- A. Deliverable is a CAD (.dwg) file with accompanying surface (.dtm) file.
- B. It is assumed that the ponds range from 3' to 5' in depth, below the water surface. Supplemental Field Survey will be performed by a two-man survey crew wearing waders and wading through the ponds. If depths are greater than anticipated, alternate means (i.e. small boat) may be required and is not included in the scope above.
- C. Vegetation/over-growth is relatively minor. Excessive ground vegetation can have a large impact to aerial photogrammetry and needs to be reduced as much as possible to ensure an accurate/quality output.

V. Exclusions.

- A. Design or survey of any improvements not specifically included in this scope of work.
- B. Volumetric comparisons to previous designs (i.e. earthwork modeling).
- C. Encroachment Permit.
- D. Storm Water Pollution Prevention Plan.
- E. Potholing or survey of existing utilities.

Fees will be charged per the attached Standard Hourly Charge Rate Schedule, which is in effect through June 30, 2021. The estimated fee amounts are for budget purposes only.



CIVIL ENGINEERS • SURVEYORS • PLANNERS

STANDARD HOURLY CHARGE RATE SCHEDULE

Effective through June 30, 2021

Engineering

Project Manager	\$215
Senior Engineer.....	\$195 - \$210
Project Engineer.....	\$175 - \$190
Staff Engineer.....	\$145 - \$165
Assistant Engineer	\$115 - \$130

Planning

Senior Planner	\$195 - \$210
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Surveying

Survey Manager	\$215
Senior Surveyor	\$195 - \$210
Project Surveyor.....	\$175 - \$190
Staff Surveyor	\$145 - \$165
Assistant Surveyor	\$115 - \$130

Party Chief.....	\$185
Chainman	\$100

Drafting

CAD Technician	\$135
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Administration

Clerical	\$70
Reimbursables.....	Cost + 10%

Management

Principal	\$240
Associate	\$220



10 December 2020
(P20-648)

Scope of Work and Cost Estimate¹ for
Environmental Services
Regarding
Mountain House Creek
(San Joaquin County, California)
For
CBG Civil Engineers, Surveyors, Planners

Cost Estimate

Proposed Tasks:

Task One: Aquatic Resources Delineation

ECORP Consulting, Inc. (ECORP) will conduct an aquatic resources delineation for the Mountain House Creek project (Project) located in San Joaquin County, California. The delineation will be performed in accordance with the Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987), Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region, Version 2.0 (U.S. Army Corps of Engineers 2008), and the U.S. Army Corps of Engineers Sacramento District's Minimum Standards for Acceptance of Aquatic Resources Delineation Reports (U.S. Army Corps of Engineers 2016), as well as in accordance with the State Water Resources Control Board *State Wetland Definition and Procedures for Discharges of Dredges or Fill Material to Waters of the State* (adopted April 2, 2019).

Potential waters of the U.S. and waters of the State, including wetlands, will be mapped in the field using a global positioning system (GPS) unit capable of submeter accuracy and/or georectified aerial photography. A report and delineation map of the findings will be submitted to the client and will include a description of existing site conditions, field methods, and potential Waters of the U.S. and Waters of the State identified on-site.

Assumptions:

The wetland delineation will be conducted under current field conditions. This cost estimate is based upon the assumption that the "routine wetland" delineation methodology is utilized and that site conditions are of relatively unaltered terrain that has not been recently farmed, tilled, irrigated, leveled, denuded, treated with herbicide, or other significant land alteration. If the site has been altered to the extent that "routine" methodology is no longer applicable, a change order agreement will be prepared. One round of revisions of the delineation report is included in this scope. This cost estimate does not include field verification site meeting(s) with USACE.

Task One: \$10,750

¹Estimate based on time and material and is valid for 90 days.

Task Two: Aquatic Resources Delineation-U.S. Army Corps of Engineers Verification

Upon client approval of the wetland delineation, ECORP Consulting, Inc. (ECORP) will submit the delineation to the U. S. Army Corps of Engineers with a request for Corps verification. ECORP will meet with the Corps (assumes no more than one site visit) to review the delineation in the field if necessary and assist in obtaining verification.

Task Two: \$3,500

Task Three: Engineer Liaison

ECORP will coordinate with the project engineer to review site boundary data and meet as needed to discuss wetland delineation data and project planning.

Task Three: \$2,750

TOTAL COST ESTIMATE FOR TASK ONE THROUGH THREE: \$17,000

Expense Reimbursement/Other:

1. Computer, facsimile, and telephone are included in the billing rates, and there is no additional charge.
 2. Copies (color and black and white), equipment and other direct expenses are reimbursed with a 14% administrative handling charge (excluding mileage and per diem).
 3. Subcontractor expenses are reimbursed with a 12% administrative handling charge.
 4. Mileage is reimbursed at current IRS rate.
 5. Per Diem, depending upon location, may be charged where overnight stays are required.
 6. Expert Witness Testimony, including Depositions, is billed at time and a half.
 7. When non-standard billing is requested, time spent by office administrative personnel in invoice preparation is a cost to the project and charged as technical labor.
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