

**AGREEMENT FOR  
FUNDING FOR THE CONSTRUCTION OF SIGNAGE**

(County – Frazier Park Public Utilities District)

THIS AGREEMENT (“**Agreement**”), is executed at Bakersfield, California, this 30<sup>th</sup> day of Nov, 2012 (“**Effective Date**”), by and between the **COUNTY OF KERN**, a political subdivision of the State of California (“**County**”), and **FRAZIER PARK PUBLIC UTILITIES DISTRICT** (“**District**”) (individually a “**Party**” or collectively the “**Parties**”).

WITNESSETH

WHEREAS, the Kern County Board of Supervisors desires to provide funding to District to assist in the construction of signage in the Frazier Park area; and

WHEREAS, the community of Frazier Park is experiencing a problem with illegal signage; and

WHEREAS, District is engaged in a project to combat illegal signage in the Frazier Park Community; and

WHEREAS, Funds were appropriated in the Fiscal Year 2012-13 County Budget in the sum of \$51,800, to be used by the Frazier Park Public Utilities District for the construction of signage; and

WHEREAS, District intends to use these funds for the sole purpose of constructing two sign boards that will give the community an easily accessible and legal advertising option (“**Services**”); and

WHEREAS, District will provide Services as part of its project to combat illegal signage; and

WHEREAS, County is willing to provide such funding to ensure that Services are completed in strict compliance with all applicable statutes, ordinances, regulations, and building codes; and

WHEREAS, it is in the best interests of the County that such funding be provided to the District for the completion of Services in order to assure and maintain the quality of life of the residents of the County.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **Funds; Term.** In full consideration for all services rendered by District, County agrees to pay, and District agrees to accept, the sum of \$51,800 (“**Funds**”) for the term beginning December 11, 2012 and ending June 30, 2013 (“**Term**”).

2. **Use of Funds.** During the Term, District shall use these funds for the sole purpose of providing the Services.

3. **Parties' Obligations.** District shall be solely responsible for all costs and expenses related to the provision of Services. County's sole and only obligation under and pursuant to the terms and provisions of this Agreement shall be payment to the District as specified in **Paragraph 1.**

4. **Independent Contractor.** In the performance of all Services, District shall be, and acknowledges that it is, in fact and law, an independent contractor and not an agent or employee of the County. District has and retains the right to exercise full supervision and control of the manner and methods of providing the Services to the County. District retains full supervision and control over the employment, direction, compensation, and discharge of all persons assisting District in the provision of the Services. With respect to District's employees, District shall be solely responsible for payment of wages, benefits or other compensation, compliance with all occupational safety, welfare, and civil rights laws, tax withholding and payment of employee taxes, whether federal, state, or local, and compliance with any and all other laws regulating employment.

5. **Books and Records.** District agrees to maintain and make available to County accurate books and records relative to the handling and expenditure of the Funds under this Agreement. District shall permit County to audit, examine and make excerpts and transcripts from such records, and to conduct audits of all invoices, materials, or other data related to the handling and expenditure of the Funds by the District. District shall maintain such data and records in an accessible location and condition for a period of not less than three years from the conclusion of the Term, or until after the conclusion of any audit, whichever occurs last.

6. **Indemnification.** District shall defend, hold harmless, and indemnify County from any and all liability or damages incurred by County from any improper handling or expenditure of the Funds by District. District further agrees to indemnify, defend, and hold harmless the County and the County's Board members, agents, elected and appointed officials and officers, employees, volunteers, and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs and expenses, of whatever kind or nature (including, but not limited to, reasonable attorneys' fees of counsel retained by the County, expert fees, costs of staff time and investigation costs) which arise out of or are in any way connected with any negligent or willful act or omission of the District or its officers, agents, employees, independent contractors, sub-contractors of any tier or authorized representatives arising out of this Agreement. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of District; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of District by any person or entity.

7. **Termination.** County may immediately suspend or terminate this Agreement, in whole or in part, where in the determination of County there is:

- a. An illegal or improper use of the Funds; or
- b. A failure by District to comply with any term, covenant or condition of this Agreement.

8. **Insurance.** District shall maintain in force at all times during the performance of this Agreement, policies of insurance covering its operations. Such insurances policies shall

name County, its officers, employees, and agents as additional insureds and provide that coverage may not be canceled or reduced until 30 days after County shall have received notice of such cancellation or reduction. When required by the insurance provider, County shall also accept a minimum of 10 days notice of cancellation for non-payment or premiums. Certificates evidencing the maintenance of such insurance coverage and a copy of the completed endorsement shall be delivered to County within 15 days from the Effective Date. The policies that must be secured are:

- ✕ a. General liability with limits of not less than \$1,000,000 per occurrence covering injury to or death of any person and with limits of not less than \$1,000,000 per occurrence covering property damage.
- ✕ b. Workers' compensation and employers' liability in accordance with applicable state law.

9. **Notices.** Any notice required or permitted to be given under this Agreement shall be in writing and shall be served by registered mail or personal service upon the other Party. When served by registered mail, service shall be conclusively deemed to be made three days after deposit with the United States Postal Service (postage prepaid) addressed to the Party to whom such notice is to be given as follows:

Notice to County shall be made to:

Clerk of the Board of Supervisors  
1115 Truxtun Avenue, 5<sup>th</sup> Floor  
Bakersfield, CA 93301

Notice to District shall be made to:

Frazier Park Public Utilities District  
PO Box 1525  
Frazier Park, CA 93225

10. **Bonding.** In the event that District utilizes contractors in the provision of Services, District shall ensure that said contractors are adequately insured and that they provide appropriate performance and construction bonds.

11. **No Use of Funds for Political Activity.** None of the Funds provided under this Agreement shall be used for any political activity, or to further the election or defeat of any candidate for public office contrary to Federal or State laws, statutes, regulations, rules or guidelines. In addition, none of the Funds provided or property purchased under this Agreement shall be used for purposes designed to support or defeat legislation before the Congress of the United States of America or the Legislature of the State of California.

12. **No Waiver of Breach.**

a. **No Waiver of Breach by Payment of Funds.** In no event shall any payment by County of any portion of the Funds constitute a waiver by County of any breach of this Agreement or any default, which may then exist on the part of District, and no such payment shall impair or prejudice any remedy available to County with respect to the

breach or default. County shall have the right to demand of District the repayment to County of any Funds disbursed to District under this Agreement which in the judgment of County were not expended in accordance with the terms of this Agreement. District shall promptly refund any such Funds upon demand. In addition to immediate suspension or termination, County may impose any other remedies available at law, in equity, or otherwise specified in this Agreement.

**b. No Waiver of Breach Except in Writing.** No term, covenant or condition of this Agreement can be waived except by the written consent of County. Forbearance or indulgence by County in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by District. County shall be entitled to invoke any remedy available to County under this Agreement or by law or in equity despite said forbearance or indulgence.

**13. Governing Law; Venue.** The Parties agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California. This Agreement has been entered into and is to be performed in the County of Kern. Accordingly, the Parties agree that the venue of any action relating to this Agreement shall be in the County of Kern.

**14. Remedies not Exclusive.** No right or remedy herein conferred on or reserved to County is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.

**15. Authority.** Each Party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.

**16. No Third Party Beneficiaries.** It is expressly understood and agreed that the enforcement of these terms, covenants and conditions, and all rights of action relating to such enforcement, shall be strictly reserved to County and District. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of County and District that any such person or entity, other than County or District, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

**17. Compliance with Laws.** District shall observe and comply with all applicable local, State and Federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which are hereby made a part hereof and incorporated herein by reference.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

COUNTY OF KERN

FRAZIER PARK P.U.D.

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

Board of Supervisors  
"County"

By: Gona Bentley \_\_\_\_\_

~~Gerald Garcia, Chairman~~  
GONA BENTLEY, TREASURER  
"District"

APPROVED AS TO CONTENT:  
County Administrative Office

APPROVED AS TO FORM:  
Office of County Counsel

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

John Nilon  
County Administrative Officer

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

Deputy County Counsel