

DEE JASPAR & ASSOCIATES, INC

CONSULTING CIVIL ENGINEERS

2730 Unicorn Road, Bldg A
BAKERSFIELD, CA 93308-6843
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639 No. Main Street, #B
PORTERVILLE, CA 93257
TEL (559) 791-9286
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Agreement between Client and Consultant

AGREEMENT ENTERED INTO AT BAKERSFIELD on this 11th day of January, 2024, by and between:

CLIENT:

Name: **Frazier Park Public Utility District**

Address: **4020 Park Drive
Frazier Park, CA**

Phone: 661-245-3734 Fax:

Email: www.frazierparkwater.com

Job Number: Pipeline Replacement Project
Construction Management

CONSULTANT:

Name: **Dee Jasper & Associates, Inc.**

Address: **2730 Unicorn Road, Bldg. A
Bakersfield, CA 93308**

Phone: **661-393-4796** Fax: **661-393-4799**

Email: djacivil@djacivil.com

License No.: **RCE 23042 (Exp. 12-31-2025)**

Client and Consultant Agree as Follows:

(Strike through and/or red font indicates board-recommended changes January 18, 2024))

- A. CLIENT retains CONSULTANT to perform services for the following project:
Provide construction layout, inspection, quality control assurance, and construction management for Phase 1 of the Pipeline Replacement Project. This is the replacement of pipelines in the Summit area of the District, together with pipelines on the south side of Mt. Pinos Way.
- B. CONSULTANT agrees to perform the following scope of services for which the CLIENT agrees to provide compensation as follows:
~~Monthly, in In~~ accordance with the current rate schedule, Exhibit "C". The Construction Management Scope of Work is attached as Exhibit A; and the Detailed Construction Management Budget for the above work is attached as Exhibit "B".
- C. CLIENT agrees to compensate CONSULTANT for such services as follows:
~~Monthly, in In~~ accordance with the current rate schedule, Exhibit "C".
- D. This agreement is subject to the Provisions of Agreement contained in paragraphs 1 through 46, and the provisions of the exhibits attached hereto and made a part hereof. (List exhibits below.)

Exhibit A – CM Scope of Work
Exhibit B – Detailed CM Budget
Exhibit C – 2023 Rate Schedule

Provisions of Agreement

CLIENT and CONSULTANT agree that the following provisions shall be part of their agreement:

1. This agreement shall be binding upon the heirs, executors, administrators, successors and assigns of CLIENT and CONSULTANT.
2. This agreement shall not be assigned by either CLIENT or CONSULTANT without the prior written consent of the other.
3. This agreement contains the entire agreement between CLIENT and CONSULTANT relating to the project and the provision of services to the project. Any prior agreements, promises, negotiations or representations not expressly set forth in this agreement are of no force or effect. Subsequent modifications to this agreement shall be in writing and signed by both CLIENT and CONSULTANT.
4. CONSULTANT's waiver of any term, condition, or covenant, or breach of any term, condition, or covenant, shall not constitute the waiver of any other term, condition, or covenant, or the breach of any other term, condition, or covenant.
5. If any term, condition, or covenant of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this agreement shall be valid and binding on CLIENT and CONSULTANT.
6. This agreement shall be governed by and construed in accordance with the laws of the State of California.
7. CONSULTANT shall only act as an advisor in all governmental relations.
8. All original papers, documents, drawings and other work product of CONSULTANT, including electronic data and files, GPS data, and copies thereof, produced by CONSULTANT pursuant to this agreement, except documents which are required to be filed with public agencies, shall remain the property of CONSULTANT and may be used by CONSULTANT without the consent of CLIENT.
9. CLIENT acknowledges that its right to utilize the services and work product provided pursuant to this agreement will continue only so long as CLIENT is not in default pursuant to the terms and conditions of this agreement and CLIENT has performed all obligations under this agreement. CLIENT further acknowledges that CONSULTANT has the unrestricted right to use the services provided pursuant to this agreement as well as all work product provided pursuant to this agreement.
10. CLIENT and CONSULTANT agree to cooperate with each other in every way on the project.
11. Upon written request, CLIENT shall execute and deliver, or cause to be executed and delivered, such additional instruments, documents, governmental fees and charges which are necessary to perform the terms of this agreement.
12. CONSULTANT makes no representations concerning soil conditions unless specifically included in writing in this agreement, and he is not responsible for any liability that may arise out of the making or failure to make soil surveys, or subsurface soil tests, or general soil testing.
13. CLIENT agrees not to use or permit any other person to use plans, drawings, or other work product prepared by CONSULTANT, which plans, drawings, or other work product are not final and which are not signed, and stamped or sealed by CONSULTANT. CLIENT agrees to be liable and responsible for any such use of nonfinal plans, drawings, or other work product not signed and stamped or sealed by CONSULTANT and waives liability against CONSULTANT for their use. CLIENT further agrees that final plans, drawings or other work product are for the exclusive use of CLIENT and may be used by CLIENT only for the project described on the face hereof. Such final plans, drawings or other work product may not be changed nor used on a different project without the written authorization or approval by CONSULTANT.
14. CONSULTANT has a right to complete all services agreed to be rendered pursuant to this contract. In the event this agreement is terminated before the completion

of all services, unless CONSULTANT is responsible for such early termination, CLIENT agrees to release CONSULTANT from all liability for work performed.

15. CLIENT agrees that in performing requested ALTA surveys in accordance with this contract, CONSULTANT agrees to sign the statement of the survey documents attached hereto as Exhibit 1 and incorporated herein by this reference. In the event that CONSULTANT is required to sign a statement or certificate which differs from that contained in Exhibit 1, CLIENT hereby agrees to indemnify and hold CONSULTANT harmless from any and all liability arising from or resulting from the signing of any statement which differs from the statement contained in Exhibit 1. (N/A)

16. If the scope of services to be provided by CONSULTANT pursuant to the terms of this agreement include the preparation of grading plans but exclude construction staking services, CLIENT acknowledges that such services normally include coordinating civil engineering services and the preparation of as-built drawings pursuant to Uniform Building Code Chapter 70 and CLIENT will be required to retain such services from another CONSULTANT or pay CONSULTANT pursuant to this agreement for such services as extra work in accordance with Paragraph 26.

17. CONSULTANT shall be entitled to immediately, and without notice, suspend the performance of any and all of its obligations pursuant to this agreement if CLIENT filed a voluntary petition seeking relief under the United States Bankruptcy Code or if there is an involuntary bankruptcy petition filed against CLIENT in the United States Bankruptcy Court, and that petition is not dismissed within fifteen (15) days of its filing. Any suspension of services made pursuant to the provisions of this paragraph shall continue until such time as this agreement has been fully and properly assumed in accordance with the applicable provisions of the United States Bankruptcy Code and in compliance with the final order or judgment issued by the Bankruptcy Court.

18. This agreement shall not be construed to alter, affect or waive any lien or stop notice right which CONSULTANT may have for the performance of services pursuant to this agreement. CLIENT agrees to separately provide to CONSULTANT the present name and address of the record owner of the property on which the project is to be located. CLIENT also agrees to

separately provide CONSULTANT with the name and address of any and all lenders who would loan money on the project and who are entitled to receive a preliminary notice.

19. If payment for CONSULTANT's services is to be made on behalf of CLIENT by a third-party lender, CLIENT agrees CONSULTANT shall not be required to indemnify the third-party lender, in the form of an endorsement or otherwise, as a condition of receiving payment for services.

20. [RESERVED] ~~IF CLIENT fails to pay CONSULTANT within thirty (30) days after invoices are rendered, CLIENT agrees CONSULTANT shall have the right to consider such default in payment a material breach of this entire agreement, and, upon written notice, the duties, obligations, and responsibilities of CONSULTANT under this agreement are terminated. In such event, CLIENT shall promptly pay CONSULTANT for all fees, charges, and services provided by CONSULTANT.;~~

21. All fees and other charges will be billed monthly and shall be due ~~at~~ ~~within sixty (60) days of~~ the time of billing unless otherwise specified in this agreement. ~~Consultant recognizes that Client depends on receipt of monies from State in order to pay Consultant, and agrees not to hold Client in default under this Agreement for any late payment resulting from delays by the State in providing payment to the Client.~~

22. CLIENT agrees that the periodic billings from CONSULTANT to CLIENT are correct, conclusive, and binding on CLIENT unless CLIENT, within ~~ten (10)~~ ~~thirty (30)~~ days from the date of receipt of such billing, notifies CONSULTANT in writing of alleged inaccuracies, discrepancies, or errors in the billing.

23. [RESERVED] ~~CLIENT agrees to pay a monthly late payment charge, which will be the lesser of, one and one-half percent (1 1/2 %) per month or a monthly charge not to exceed the maximum legal rate, which will be applied to any unpaid balance commencing thirty (30) days after the date of the original billing.~~

24. If CONSULTANT, pursuant to this agreement, produces plans, specifications, or other documents and/or performs field work, and such plans, specifications, and other documents and/or field work are required by one or more governmental agency, and one or more such

governmental agency changes its ordinances, policies, procedures or requirements after the date of this agreement, any additional office or field work thereby required shall be paid for by CLIENT as extra work.

25. In the event of any increase of costs due to the granting of wage increases and/or other employee benefits to field or office employees due to the ~~terms of any labor agreement, or~~ rise in the cost of living, during the lifetime of this agreement, such percentage increase shall be applied to all remaining compensation.

26. CLIENT agrees that if CLIENT requests services not specified pursuant to the scope of services description within this agreement, CLIENT agrees to pay for all such additional services as extra work.

27. In the event that any staking is destroyed, damaged or disturbed by an act of God or parties other than CONSULTANT, the cost of restaking shall be paid for by CLIENT as extra work. CLIENT acknowledges that the design work performed pursuant to this agreement is based upon field and other conditions existing at the time of preparation of CONSULTANT's work. CLIENT further acknowledges that field and other conditions may change by the time project construction occurs and clarification, adjustments, modifications and other changes may be necessary to reflect changed field or other conditions. If the scope of services pursuant to this agreement does not include construction staking services by CONSULTANT for this project, or if subsequent to this agreement CLIENT retains other persons or entities to provide such services, CLIENT acknowledges that such services will be performed by others and that CLIENT will defend, indemnify, and hold CONSULTANT harmless from any and all claims arising from or resulting from the performance of such services by other persons or entities except claims caused by the sole negligence or willful misconduct of CONSULTANT; and from any and all claims arising from or resulting from clarifications adjustments, modifications or other changes which may be necessary to reflect changed field or other conditions except claims caused by the sole negligence or willful misconduct of CONSULTANT.

28. CLIENT shall pay the costs of checking and inspection fees, zoning and annexation application fees, assessment fees, soils engineering fees, soils testing fees, aerial topography fees, and all other fees, permits, bond premiums, title company charges, blueprints and

reproductions, and all other charges not specifically covered by the terms of this agreement.

29. In the event all or any portion of the work prepared or partially prepared by CONSULTANT be suspended, abandoned, or terminated, CLIENT shall pay CONSULTANT for all fees, charges, and services provided for the project, not to exceed any contract limit specified herein. CLIENT acknowledges if the project work is suspended and restarts, there will be additional charges due to suspension of the work which shall be paid for by CLIENT as extra work.

30. CLIENT acknowledges and agrees that if CONSULTANT provides surveying services, which services require the filing of a Record of Survey in accordance with Business and Professions Code Section 8762, that all of the costs of preparation, examination and filing for the Record of Survey will be paid by CLIENT as extra work in accordance with Paragraph 26.

31. CONSULTANT is not responsible for delay caused by activities or factors beyond CONSULTANT's reasonable control, including but not limited to, delays by reason of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of CLIENT to furnish timely information or approve or disapprove CONSULTANT's work promptly, faulty performance by CLIENT or other contractors or governmental agencies. When such delays beyond CONSULTANT's reasonable control occur, CLIENT agrees CONSULTANT is not responsible in damages nor shall CONSULTANT be deemed to be in default of this agreement.

32. CONSULTANT shall not be liable for damages resulting from the actions or inactions of governmental agencies including, but not limited to, permit processing, environmental impact reports, dedications, general plans and amendments thereto, zoning matters, annexations or consolidations, use or conditional use permits, project or plan approvals, and building permits.

33. In the event that CLIENT institutes a suit against CONSULTANT, either directly by complaint or by way of cross-complaint, including a cross-complaint for indemnity, for alleged negligence, error, omission, or other failure to perform, and if CLIENT fails to obtain a judgment in CLIENT's favor, the lawsuit is dismissed, or if judgment is rendered for CONSULTANT, CLIENT agrees to pay CONSULTANT all costs of defense, including attorneys' fees, expert witness fees, court costs,

and any and all other expenses of defense. CLIENT agrees such payments shall be made immediately following dismissal of the case or upon entry of judgment.

such changes and further agrees to defend, indemnify and hold harmless CONSULTANT, its officers, directors, principals, agents and employees from and against all claims, demands, damages or costs arising from the changes and their effects.

34. If any action at law or equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this agreement, the prevailing party shall be entitled to reasonable attorney's fees, which fees may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which he may be entitled.
35. CLIENT agrees that in the event CLIENT institutes litigation to enforce or interpret the provisions of this agreement, such litigations to be brought and adjudicated in the appropriate court in the county in which CONSULTANT's principal place of business is located, and CLIENT waives the right to bring, try or remove such litigation to any other county or judicial district.
36. CONSULTANT makes no representation concerning the estimated quantities and cost figures made in connection with maps, plans, specifications, or drawings other than that all such figures are estimates only and CONSULTANT shall not be responsible for fluctuations in cost factors.
37. CLIENT acknowledges that CONSULTANT is not responsible for the performance of work by third parties including, but not limited to, the construction contractor and its subcontractors.
38. CONSULTANT makes no warranty, either expressed or implied, as to his findings, recommendations, plans, specifications, or professional advice except that the work was performed pursuant to generally accepted standards of practice in effect at the time of performance.
39. Estimates of areas provided under this agreement are not to be considered precise unless CONSULTANT specifically agrees to provide the precise determination of such areas.
40. In the event the CLIENT agrees to, permits or authorizes changes in the plans, specifications, reports and documents prepared by CONSULTANT pursuant to this agreement, which changes are not consented to in writing by CONSULTANT, CLIENT acknowledges that the changes and their effects are not the responsibility of CONSULTANT and CLIENT agrees to release CONSULTANT from all liability arising from the use of
41. CLIENT acknowledges that the design work performed pursuant to this agreement is based upon field and other conditions existing at the time of preparation of CONSULTANT's work. CLIENT further acknowledges that field and other conditions may change by the time project construction occurs and clarification, adjustments, modifications, discrepancies or other changes may be necessary to reflect changed field or other conditions. If the scope of services pursuant to this agreement does not include on-site construction review, construction management, supervision of construction of engineering structures, or other construction supervision for this project, or if subsequent to this agreement CLIENT retains other persons or entities to provide such services, CLIENT acknowledges that such services will be performed by others and CLIENT will defend, indemnify and hold CONSULTANT harmless from any and all claims arising from or resulting from the performance of such services by other persons or entities except claims caused by the sole negligence or willful misconduct of CONSULTANT; and from any and all claims arising from or resulting from clarifications, adjustments, modifications, discrepancies or other changes necessary to reflect changed field or other conditions, except claims caused by the sole negligence or willful misconduct of CONSULTANT.
42. CLIENT agrees that in accordance with generally accepted construction practices, construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property; that this requirement shall be made to apply continuously and not be limited to normal working hours, and CLIENT further agrees to defend, indemnify and hold CONSULTANT harmless from any and all liability, real or alleged, in connection with the performance of work on this project, excepting liability arising from the sole negligence of CONSULTANT.
43. In the event CLIENT discovers or becomes aware of changed field or other conditions which necessitate clarification, adjustments, modifications or other changes during the construction phase of the project, CLIENT agrees to notify CONSULTANT and engage

CONSULTANT to prepare the necessary clarifications, adjustments, modifications or other changes to CONSULTANT's work before construction activities commence or further activity proceeds. Further, CLIENT agrees to have a provision in its construction contracts for the project which requires the contractor to notify CLIENT of any changed field or other conditions so that CLIENT may in turn notify CONSULTANT pursuant to the provisions of this paragraph.

44. CLIENT agrees to purchase and maintain, during the course of construction, builder's risk "all risk" insurance which will name CONSULTANT as an additional insured as their interest may appear

45. CONSULTANT hereby states and CLIENT hereby acknowledges that CONSULTANT has no professional liability insurance for claims arising out of the performance of or failure to perform professional services, including, but not limited to the preparation of reports, designs, drawings and specifications, related to the investigation, detection, abatement, replacement, use or specification, or removal of products, materials or processes containing asbestos, asbestos cement pipe, and/or hazardous waste materials. Accordingly, the CLIENT hereby agrees to bring no claim for negligence, breach of contract, indemnity or otherwise against the CONSULTANT, its principals, employees and agents from any asbestos and/or hazardous waste material related claims that may be brought by third parties as a result of the services provided by the CONSULTANT pursuant to this agreement except claims caused by the sole negligence or willful misconduct of the CONSULTANT.

46. CLIENT acknowledges that CONSULTANT's scope of services for this project does not include any work related in any way to asbestos and/or hazardous waste. Should CONSULTANT or any other party encounter such materials on the job site, or should it in any other way become known that such materials are present or may be present on the job site or any nearby areas which may affect CONSULTANT's work, CONSULTANT may, at its option, terminate work on the project until such time as CLIENT retains a specialist contractor to abate and/or remove the asbestos and/or hazardous waste materials and warrant that the job site is free from any hazard which may result from the existence of such materials.

IN WITNESS WHEREOF, the parties hereby execute this agreement upon the terms and conditions stated above and on the date and year indicated above.

CLIENT:

Name: _____

By: _____

Name: _____

Title: _____

Date Signed: _____

CONSULTANT:

Name: **Dee Jaspar & Associates, Inc.**

By: _____

Name: **Dee Jaspar**

Title: **President**

Date Signed: _____