

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE COUNTY OF SANTA BARBARA**

AN ORDINANCE OF THE COUNTY OF SANTA BARBARA, CALIFORNIA, GRANTING TO ERG RESOURCES, LLC, ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE FRANCHISE TO USE AND TO CONSTRUCT, ALTER, OPERATE AND MAINTAIN A PIPELINE SYSTEM FOR THE DISTRIBUTION OF PETROLEUM PRODUCTS, INCLUDING PRODUCED WATER, CONSISTING OF PIPELINES, POLES, WIRES, CONDUITS, AND APPURTENANCES INCLUDING COMMUNICATION CONDUITS OR CIRCUITS NECESSARY AND INCIDENTAL THERETO; IN, ALONG, ACROSS, UPON, OVER AND UNDER COUNTY HIGHWAYS, ROADS, STREETS, ALLEYS, AND WAYS, AS THEY MAY NOW OR HEREAFTER EXIST, WITHIN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA.

PRIVATE FRANCHISE. This Private Franchise (hereinafter "Franchise") is granted by the Board of Supervisors of the County of Santa Barbara (hereinafter "County").

PREAMBLE. A Franchise is hereby granted to ERG RESOURCES, LLC, its successors and assigns, (hereinafter "Grantee"), for a period of twenty (20) years from and after the effective date of this Franchise, for the purposes described below, over, under or upon those certain public streets, ways, alleys or places in the unincorporated areas of the County of Santa Barbara, as shown on Exhibit "A", attached hereto and incorporated herein by reference.

(1) Purpose: The purpose of the Franchise is to operate and maintain various diameter pipelines for the transportation of hydrocarbon substances within certain public right-of-way within the unincorporated areas of the County of Santa Barbara. Grantee, as a successor in interest to Texaco Inc., and Chevron USA, Inc., pursuant to the Franchise granted by County to Texaco, Inc., on March 23, 1970, by Ordinance 2071; currently operates and maintains one 4" pipeline that transports produced water, and it is not anticipated that a different oil product will be shipped on the pipeline. In the event Grantee desires to ship a different oil product, Grantee shall notify the County of its intention a minimum of sixty days in advance of any such change.

(2) Franchise area: The Franchise area shall consist of the public right-of-way within the unincorporated areas of the County of Santa Barbara, as such are depicted on the maps attached hereto as Exhibit A.

The terms and conditions of this Franchise are as follows:

SECTION 1. SCOPE OF FRANCHISE. The facilities to be constructed, maintained and operated under this Private Franchise shall be constructed and maintained in a good and workmanlike manner and of good material. The work of constructing, repairing and maintaining the system shall at all times during the term hereof, in all respects comply with present and future rules, regulations and ordinances of such County, State, or Federal authorities as may have



jurisdiction over the system. The County of Santa Barbara reserves all regulatory power by law allowed to it over and with reference to the Franchise granted and the exercise of rights, powers, or privileges under the same by the Grantee, its successors or assigns.

Grantee shall, immediately upon constructing, using or maintaining any pipelines, poles, wires, conduits, and appurtenances including communication circuits, or any part thereof, shall at its own cost and expense place all public roads disturbed or altered as a result of Grantee's actions under this Franchise, or such part of the road as may have been damaged or altered, in as good order and condition as the road was in prior to being disturbed or excavated for the purpose of constructing, using or maintaining any poles, wires, conduits, and appurtenances including communication circuits.

Grantee shall relocate, without expense to County, any pipelines, poles, wires, conduits and appurtenances, including communication circuits, constructed, maintained or used under this Franchise, if and when made necessary by any lawful change of grade, alignment or width of any public roads by County.

The terms and conditions of this Franchise shall also apply to any pipelines, conduits, poles, wires or other facilities which may subsequently be acquired by the Grantee and which are located within the right-of-way of any County highway at the time of such acquisition by the Grantee, whether or not they were theretofore subject to a Franchise granted by the County of Santa Barbara.

Grantee shall not permit any facilities authorized herein to be used by any third parties for the benefit of such third party, without the prior written consent of County. For purposes of this Franchise, "third party" shall be any person or organization of any type, which does not have a bona fide business relationship with Grantee apart from the rights which are the subject of this Franchise.

Franchises granted pursuant to this Ordinance shall be non-exclusive.

**SECTION 2. ACCEPTANCE.** This Private Franchise is accepted as binding on the parties when the Franchise is awarded by the Board and accepted by the Grantee.

Grantee shall within thirty (30) days after the adoption of the Ordinance granting the Franchise, file with the Clerk written acceptance of the terms and conditions of this Franchise. Such written acceptance shall constitute a continuing agreement by the Grantee that if and when the County later annexes, or consolidates with, additional territory, all Franchises, rights and privileges owned by the Grantee therein shall be deemed abandoned within the limits of the additional territory. Should Grantee fail to file written acceptance within thirty (30) days, any Franchise rights or privileges shall automatically terminate.

**SECTION 3. PERMIT.** The Grantee may, subject to such regulations as are now or hereafter may be in force, make excavations in and place obstructions upon County roads within the area covered by this Franchise for the purpose of constructing, maintaining, operating, and removing any Franchise facility or property. Except in the event of an emergency, no excavation in or obstruction of any County road may be made unless and until a Road Encroachment Permit therefor is obtained from the County, in accordance with, and if required by, the provisions of Chapter 28 of the Santa Barbara County Code, and any amendments and successors thereto. In the event of an emergency, the Grantee shall promptly notify the County of the incident and file an application for a Road Encroachment Permit within one (1) business day of such notification. In addition, Grantee shall at all times comply with all applicable Federal, State and local rules, restrictions and procedures related to construction, safety and environmental issues as may be in



effect upon the granting of the Franchise, or which may become effective during the term of the Franchise, including any amendments or replacements thereof.

Prior to the granting of this Franchise, Grantee has been issued Road Encroachment Permit No. 037205, issued by County's Public Works Department on January 24, 2011, and Land Use Permit No. 10 LUP-0000-00274 issued by County's Planning and Development Department on July 27, 2010.

**SECTION 4. COMMENCEMENT AND COMPLETION.** The work, if any, to construct the facilities necessary to fulfill the purposes of this Franchise shall be pursued diligently and in good faith within four months of the effective date of this Franchise, or of any approved permit for such construction, and if not commenced within such time, this Franchise shall automatically be forfeited. For good cause shown prior to the expiration of the four-month period, County's Board of Supervisors may, by resolution, extend the time for commencement of construction.

Failure to commence work to construct the facilities necessary to the purposes of this Franchise within the required timeframe, or to pursue the work diligently and in good faith shall result in forfeiture of this Franchise.

**SECTION 5. ASSIGNMENT.** Grantee shall not transfer or assign this Franchise, or any of the rights or privileges granted hereby, except with the written consent of County's Board of Supervisors. A mere change of name or of the nature of the Grantee entity without more than fifty percent (50%) change in ownership of Grantee shall not require such consent, but a merger with another entity, or a change of ownership of Grantee or its stock in excess of fifty percent (50%) shall require such consent of County's Board of Supervisors. Before County will consider consenting to such transfer or assignment, the proposed assignee shall submit a financial statement of its assets and liabilities and a statement of experience and qualifications. No consent shall be effective until the proposed assignee files with County and County approves its bond of the type approved by County and in the amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).

The Grantee shall, within thirty (30) days after any sale, transfer, assignment or lease of the Franchise or any part thereof, or any of the rights or privileges granted thereby, provide the County with written evidence of such transaction.

**SECTION 6. FRANCHISE FEES.** In the event of an initial grant of Franchise or Franchises that renew, extend or continue previously granted Franchises, a processing fee to cover departmental costs, including publication expenses incurred in connection with the granting of this Franchise, shall be paid by Grantee in an amount to be established by the County from time to time. A deposit of SIX THOUSAND DOLLARS (\$6,000.00) was submitted by Grantee's predecessor in interest that shall be applied to such processing fees.

In addition, the Grantee and its successors and assigns, shall during the life of this Franchise pay to the County of Santa Barbara, in lawful money of the United States, an annual Franchise fee of TWO THOUSAND EIGHT HUNDRED AND NINETY-NINE DOLLARS AND THIRTY-SEVEN CENTS (\$2,899.37) for the 15,396 lineal feet of pipelines existing at the time of execution hereof, and described on Exhibit A hereto. The Franchise fee shall be paid annually during the life of this Franchise, with the first payment due December 1, 2011, for the period from December 1, 2010, through November 30, 2011. Franchise fees shall be paid on all pipelines not removed or abandoned in place in accordance with Section 15. *REMOVAL OF FACILITIES*, hereof.



In the event new pipelines are approved by County and installed for use by Grantee, or existing pipelines are reactivated for use by Grantee, the annual Franchise fees due and payable hereunder shall be increased proportionally according to lineal feet of County right of way occupied by such additional pipelines. No new pipelines shall be installed, nor shall existing pipelines be reactivated, without Grantee first obtaining all permits and approvals required for such installation or reactivation from the appropriate government entities, including County.

The annual Franchise fee shall be adjusted every five years during the term of this Franchise according to the Consumer Price Index. For the payment period beginning December 1, 2014, and due December 1, 2015, and every five years thereafter, the Franchise fees due hereunder shall be increased as follows:

(1) The Franchise fees due prior to the increase shall be multiplied by the proportional increase in the United States Department of Labor's Consumer Price Index for All Urban Consumers (CPI-U) for the selected local area of Los Angeles-Riverside-Orange County, CA, from September of the year five years preceding to September of the current year. For example, the United States Department of Labor's Consumer Price Index for All Urban Consumers (CPI-U) for the selected local area of Los Angeles-Riverside-Orange County, CA, for September of 2009, is stated to be 225.226. If the published Consumer Price Index for All Urban Consumers (CPI-U) for the selected local area of Los Angeles-Riverside-Orange County, CA, for September of 2014, is stated to be X, and the then-current Franchise fees are \$2,899.37, the adjusted Franchise fees for the payment period beginning December 1, 2014, and due December 1, 2015, shall be calculated to be X divided by 225.226, times the Franchise fees due prior to the increase ( $X/225.226 \times \$2,899.37$ ). Under no circumstances shall the multiplying factor be less than one.

(2) If the United States Department of Labor, Office of Information discontinues the preparation or publication of a Consumer Price Index for the area, and if no translation table prepared by the Department of Labor is available so as to make those statistics which are then available applicable, County shall prescribe a rate of payment which shall, in its judgment, vary from the rates specified in this section in approximate proportion as commodity consumer prices then current vary from commodity consumer prices from September of the year five years preceding for the selected local area of Los Angeles-Riverside-Orange County, CA. On this point, the determination by the County shall be final and conclusive.

Should a uniform Franchise fee schedule for Private Franchises be adopted by County in the future, County hereby reserves the right to change Franchise fees to conform to such uniform fee schedule. County reserves the right to review the measure or amount of Franchise fees at the end of each five-year period of the Franchise. If County desires to change the measure or amount of Franchise fees, County shall provide for a hearing. Grantee shall be given ten days notice of the hearing and shall be provided with a copy of the proposed change in Franchise fees. In the event that such increases should occur, County shall provide Grantee with ninety (90) days written notice of any increase prior to its application to this Franchise.

**SECTION 7. STATEMENT OF COUNTY RIGHT-OF-WAY OCCUPIED.** Concurrently with the annual payment of Franchise fees, Grantee shall file with the County a statement, verified by the oath of the Grantee or the manager or other responsible officer of the Grantee, showing the actual lineal footage of pipeline occupying County roadway. Any neglect, omission or refusal by Grantee to file such verified statement or to pay Franchise fees at the times or in the manner herein provided shall be adequate grounds upon which the County's Board of Supervisors may, by resolution, declare this Franchise and all rights of Grantee hereunder terminated.



SECTION 8. BOND. The grant of this Franchise is effective only upon the further condition that the Grantee shall file within five business days of the Grantee's filing its written acceptance of the Franchise, and at all times during the life of the Franchise, keep on file with County, a bond running to the County of Santa Barbara and to any successor to any of the rights of the County of Santa Barbara under the terms of this Franchise in a penal sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), with sureties to be approved by County, conditioned upon Grantee well and truly observing, fulfilling and performing each and every term and condition of the Franchise, including the provisions contained in Section 12, *REMOVAL OF FACILITIES*, and in case of any failure by Grantee to perform any term or condition of the Franchise, or in case of any breach of any term or condition of this Franchise by Grantee, the entire bond shall be recoverable, and the principal and surety shall be jointly and severally liable for such performance or for any damage, expense, loss or injury directly or indirectly suffered therefrom by County. This bond shall not be deemed to be the bond required by Sec. 28-7 of the Santa Barbara County Code.

No bond shall be deemed adequate unless it is valid for the entire term of the Franchise plus one year and all bonds shall contain provisions that the bond shall remain valid until at least thirty days after notification by the surety to County that the bond is about to be cancelled, expire or not be renewed.

Nothing herein shall insulate Grantee from liability in excess of the amount of the bond or shall be construed as a waiver by County of any legal remedy against Grantee for any breach of the terms and conditions of this Franchise, or for any damage, loss or injury suffered by County in case of any damage, loss or injury suffered by any person or property in Grantee's exercise of this Franchise.

SECTION 9. FORFEITURE. Any failure or refusal by Grantee to comply with any term or condition of this Franchise or of the bond shall be adequate ground for termination hereof and County's Board of Supervisors may thereupon declare by resolution an automatic forfeiture of this Franchise and may exclude Grantee from further occupancy or use of all County property authorized under this Franchise. A termination shall not of itself operate to release the bond required in Section 8 hereof. Upon declaring this Franchise terminated, County may elect to take and accept the bond as liquidated damages therefor or to pursue any other legal remedy for any damage, loss or injury.

After forfeiture of the Franchise, the bond shall remain in full force and effect for a period of one year unless exonerated by County. No bond shall be exonerated unless a release is obtained from the County's Director of Public Works, or designee, and from County's Auditor-Controller, or designee. The release shall state whether all Franchise fees have been paid, all excavations have been backfilled, all obstructions removed, and whether the substratum or surface of County roads occupied or used have been placed in a good and serviceable condition. The release shall not constitute a waiver of any right or remedy which County may have against Grantee or any other person for any damage, loss or injury suffered by County as a result of any work or activity performed by Grantee in the exercise of this Franchise.

SECTION 10. PAYMENT OF TAXES. If, at any time during the term of this Franchise, the holder becomes delinquent in the payment of any taxes or fees to the County of Santa Barbara or to any special district operating within the County, this Franchise may be forfeited by resolution of County's Board of Supervisors. Taxes shall not be deemed delinquent hereunder, even though unpaid when due, if Grantee has notified County that it contests the validity or legality of all or



part of such taxes and Grantee thereafter diligently pursues a determination of such validity or legality.

SECTION 11. TITLE TO PROPERTY. Title to all real or personal property placed on, imbedded in or buried under the substratum or surface of County property by Grantee in exercise of this Franchise shall remain in Grantee; provided, however, that title thereto shall, at County's affirmative election, transfer and vest in County if such property is not removed within one hundred eighty days, or such further extensions as County may grant, after date of expiration or termination of this Franchise and no renewal or replacement Franchise has been granted. Such transfer or vesting of title shall not constitute a waiver of any right or remedy which County may have against Grantee or any other person for any damage, loss or injury suffered by County as a result of any work or activity performed by Grantee in the exercise of this Franchise.

SECTION 12. REMOVAL OF FACILITIES. Upon termination or expiration of this Franchise, provided Grantee has not filed an application with County to renew or replace such Franchise, County may, by written notice to Grantee, require Grantee to remove, without expense to County, all facilities maintained in County roads pursuant to the terms of this Franchise. If such removal is not completed within one hundred eighty days of such notice by County (or any additional period granted by County), County may provide for the removal of the facilities or any part thereof and Grantee agrees to pay for the costs of such removal.

Notwithstanding anything contained herein, County may, by resolution, authorize Grantee to abandon in place any pipe, pole or other facility, which Grantee has installed and maintained in exercise of its rights under the terms of this Franchise. The request of Grantee to abandon in place any facility shall be deemed an offer of transfer of such facilities to County and by resolution authorizing Grantee to abandon any facility in place; County shall succeed to all right, title and interest of Grantee to the facilities.

SECTION 13. EFFECTIVE DATE OF FRANCHISE. This Franchise shall become effective upon Grantee's filing of written acceptance of the terms and conditions of this Franchise with the Clerk, in accordance with Section 2. *ACCEPTANCE*, hereof, and submission of the bond required by Section 8. *BOND*, hereof.

SECTION 14. CHANGE IN STATUS OF PUBLIC AREA. If any of the area covered by this Franchise is included in an incorporated city, the city shall, as to that area, succeed to all rights of County under this Franchise.

If and when made necessary by any lawful change of grade, alignment, or width of any public street, way, alley, or place by County, Grantee shall remove or relocate any facilities installed, used, and maintained under this Franchise, without expense to County.

SECTION 15. RIGHT LIMITED TO PUBLIC EASEMENTS. This Franchise shall confer upon Grantee only the right or privilege to enter upon the public easement or fee interest in County roads and shall not be construed to authorize any invasion of property rights of abutting owners.

SECTION 16. INDEMNIFICATION and INSURANCE. Grantee shall defend, indemnify and save harmless the County, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of this Franchise or occasioned by the performance or attempted performance of the provisions hereof;



including, but not limited to, any act or omission to act on the part of the Grantee or his agents or employees or other independent contractors directly responsible to him; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting from the sole negligence or willful misconduct of the County.

Grantee shall notify the County immediately in the event of any accident or injury arising out of or in connection with this Franchise.

In addition, Grantee shall procure and maintain insurance in an amount and type approved by the County's Risk Manager. This insurance requirement shall be subject to periodic review by County and may be revised from time to time to include additional types of coverage and limits. In the event Grantee is self-insured, such self-insurance shall be deemed to meet the requirements hereof when it has been approved by the County's Risk Manager, which approval shall not be unreasonably withheld.

Upon the granting of this Franchise, Grantee shall comply with the insurance requirements set forth in Exhibit "B", attached hereto and incorporated herein by reference.

SECTION 17. NOTICES. All notices, demands, approvals, consents, or other communications required or desired to be given under this Ordinance shall be mailed, delivered or transmitted to the party indicated below:

Grantee:           ERG Resources, LLC  
Michelle Mariscal  
Environmental, Safety and Regulatory Technician  
6085 Cat Canyon Road  
Santa Maria CA 93454  
Phone (805) 361-7110  
Fax (805) 937-7217  
Email: [mmariscal@ergresources.com](mailto:mmariscal@ergresources.com)

County:           County of Santa Barbara  
Support Services Division  
Courthouse East Wing, Second Floor  
1105 Santa Barbara Street  
Santa Barbara, CA 93101  
Tel: # (805) 568-3070  
Fax: # (805) 568-3249

Each such notice, demand, approval, consent, or other communication shall be deemed effective and given (i) upon receipt, if personally delivered, (ii) upon being transmitted, if sent by telegram, telex or telecopy, if a copy of the notice is also sent by United States Certified Mail and provided receipt is confirmed by a transmission report or otherwise, (iii) two (2) business days after deposit in the United States mail in Los Angeles or Santa Barbara Counties, certified and postage prepaid, properly addressed to the party to be served or (iv) upon receipt if sent in any other way. Any party hereto may from time to time, by written notice to the other, designate a different address than that set forth above for the purposes of notice, provided, however, that no notice of a change of address shall be effective until actual receipt of the notice.



PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this \_\_\_\_ day of \_\_\_\_\_ 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

COUNTY OF SANTA BARBARA

ATTEST:  
CHANDRA L. WALLAR  
CLERK OF THE BOARD

\_\_\_\_\_  
Chair, Board of Supervisors

By \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM:  
DENNIS A. MARSHALL  
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING:  
ROBERT W. GEIS, C.P.A.  
AUDITOR-CONTROLLER

By \_\_\_\_\_  
Kevin E. Ready, Sr.  
Senior Deputy County Counsel

By \_\_\_\_\_  
Deputy

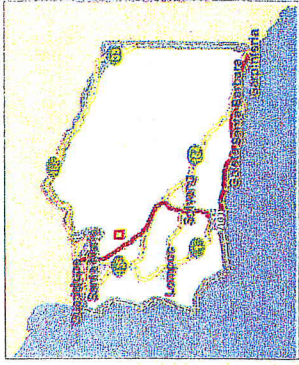




# County of Santa Barbara - My Property



**EXHIBIT A**  
1 of 2



### Legend

Districts - Supervisory

Aerial Imagery - 2006

- Red: Band\_1
- Green: Band\_2
- Blue: Band\_3

● ERG - Existing  
Pipeline Location

1:13,887



### Notes

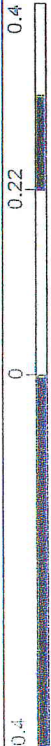
Enter Map Description

0.4 Miles

0.22

0

0.4



This map is for reference only. Santa Barbara County shall not be liable for any errors, omissions, or damages that result from inappropriate use of this document. No level of accuracy is claimed for the boundary lines shown hereon and lines should not be used to obtain coordinate values, bearings or distances.





# County of Santa Barbara - My Property



**Legend**  
Districts - Supervisorial  
Aerial Imagery - 2006

- Red: Band\_1
- Green: Band\_2
- Blue: Band\_3

● EEO - Existing  
Pipeline location



1.8 Miles

0.88

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1.8

© County of Santa Barbara

This map is for reference only. Santa Barbara County shall not be liable for any errors, omissions, or damages that result from inappropriate use of this document. No level of accuracy is claimed for the boundary lines shown hereon and lines should not be used to obtain coordinate values, bearings or distances.

1:55,547



**Notes**  
Enter Map Description



**EXHIBIT B**  
**INSURANCE REQUIREMENTS**

1. Indemnity – Grantee shall defend, indemnify and save harmless the County, its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof; including, but not limited to, any act or omission to act on the part of the Grantee or his agents or employees or other independent contractors directly responsible to him; except those claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities resulting from the sole negligence or willful misconduct of the County.

Grantee shall notify the County immediately in the event of any accident or injury arising out of or in connection with this Agreement.

2. Additional Insured – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability and Automobile Liability policies, shall contain endorsements naming County and its officers, employees, agents and volunteers as additional insureds with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for County to vicarious liability but shall allow coverage for County to the full extent provided by the policy.

3. Waiver of Subrogation Rights – Grantee shall require the carriers of required coverages to waive all rights of subrogation against County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit Grantee and Grantee's employees or agents from waiving the right of subrogation prior to a loss or claim. Grantee hereby waives all rights of subrogation against County.

4. Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by County.

5. Severability of Interests – Grantee agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between Grantee and County or between County and any other insured or additional insured under the policy.

6. Proof of Coverage – Grantee shall furnish Certificates of Insurance to the County Department administering the Agreement evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Grantee shall maintain such insurance from the time Grantee commences performance of services



hereunder until the completion of such services. Within fifteen (15) days of the commencement of this Agreement, Grantee shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

7. Acceptability of Insurance Carrier – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of A- VII.

8. Deductibles and Self-Insured Retention - Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

9. Failure to Procure Coverage – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, County has the right but not the obligation or duty to cancel the Agreement or obtain insurance if it deems necessary and any premiums paid by County will be promptly reimbursed by Grantee or County payments to Grantee will be reduced to pay for County purchased insurance.

10. Insurance Review – Insurance requirements are subject to periodic review by County. The Risk Manager or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of County. In addition, if the Division of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against County, inflation, or any other item reasonably related to County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Grantee agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of County.

11. Insurance Specifications – Grantee agrees to provide insurance set forth in accordance with the requirements herein. If Grantee uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, Grantee agrees to amend, supplement or endorse the existing coverage to do so. The type(s) of insurance required is determined by the scope of the contract services.

Without in any way affecting the indemnity herein provided and in addition thereto, Grantee shall secure and maintain throughout the Agreement term the following types of insurance with limits as shown:

A Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with one million dollar (\$1,000,000) limits covering all persons including volunteers providing services on behalf of Grantee and all risks to such persons under this Agreement.

If Grantee has no employees, it may certify or warrant to County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Program Risk Administrator.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

B. Commercial/General Liability Insurance – Grantee shall carry General Liability Insurance written on Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, covering all operations performed by or on behalf of Grantee with limits of not less than two million dollars (\$2,000,000) per occurrence and not less than a two million dollar (\$2,000,000) general aggregate limit.

C. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Form Number CA 00 01 covering any auto (Code 1), or if Grantee has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than one million (\$1,000,000) per accident for bodily injury and property damage.

If Grantee owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

D. Pollution Legal Liability – Grantee shall carry Pollution Legal Liability Insurance with limits of not less than ten million (\$10,000,000) per occurrence.

E. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not



covered by the primary policy. The coverage shall also apply to automobile liability.