

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and Valley Garbage and Rubbish Company, Inc., d/b/a Health Sanitation Services, having its principal place of business at 1850 W. Betteravia Road (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **DESIGNATED REPRESENTATIVE.** Leslie Wells at phone number (805)882-3611 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Keith Ramsey at phone number (805) 614-1130 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To COUNTY: Leslie Wells
Public Works Department
Resource Recovery & Waste Management Division
130 E. Victoria Street, Suite 100
Santa Barbara, CA 93101

To CONTRACTOR: Keith Ramsey
District Manager
1850 W. Betteravia Road
Santa Maria, CA 93455

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail.

3. **SCOPE OF SERVICES.** CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. **TERM.** CONTRACTOR shall commence performance on July 1, 2007 and end performance on June 30, 2011, unless this Agreement is earlier terminated pursuant to the terms herein.

5. **COMPENSATION OF CONTRACTOR.** CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference.

6. **INDEPENDENT CONTRACTOR.** CONTRACTOR shall perform all of its services under this Agreement as an independent contractor and not as an employee of COUNTY. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure.

7. **STANDARD OF PERFORMANCE.** CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All

products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. **TAXES.** COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

9. **CONFLICT OF INTEREST.** CONTRACTOR covenants that CONTRACTOR presently has no interest and shall not acquire any 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 by CONTRACTOR.

10. **RESPONSIBILITIES OF COUNTY.** COUNTY shall provide all information reasonably necessary by CONTRACTOR in performing the services provided herein.

11. **OWNERSHIP OF DOCUMENTS.** COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents related to the Contractor's performance under this Agreement, of any type whatsoever, and any material necessary for the practical use of the data and/or documents from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any materials under this section except after prior written approval of COUNTY.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of COUNTY. COUNTY shall have the unrestricted authority to publish, disclose, distribute, and otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

12. **RECORDS, AUDIT, AND REVIEW.** CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice.

13. **INDEMNIFICATION AND INSURANCE.** CONTRACTOR shall agree to defend, indemnify and save harmless the COUNTY and to procure and maintain insurance in accordance with the provisions of EXHIBIT C attached hereto and incorporated herein by reference.

14. **NONDISCRIMINATION.** COUNTY hereby notifies CONTRACTOR that COUNTY'S Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

15. **EXCLUSIVE AGREEMENT.** CONTRACTOR and COUNTY understand that this is an exclusive Agreement and that COUNTY shall not enter into another agreement for the processing of green

waste with any other third party during the Term hereof, unless this Agreement has been terminated pursuant to the terms herein.

16. **ASSIGNMENT.** CONTRACTOR shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY, which shall not be unreasonably withheld, and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

17. **TERMINATION.**

A. **By COUNTY.** COUNTY may, at COUNTY'S sole option, by written notice to CONTRACTOR effective upon receipt by CONTRACTOR, terminate this Agreement in whole or in part at any time, because of the failure of CONTRACTOR to fulfill the obligations herein, and following a 30-day opportunity by CONTRACTOR to cure such deficiency. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services effected (unless the notice directs otherwise), and deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process.

Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for service performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not effect any right or remedy which COUNTY may have in law or equity.

B. **By CONTRACTOR.** Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.

18. **SECTION HEADINGS.** The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

19. **SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein provided that if Section I D of Exhibit A providing for County approval (or disapproval) or selection of any disposal facility is ruled illegal, invalid, unconstitutional or otherwise not binding and enforceable, such provision shall not be severed here from and County may terminate this Agreement in accordance with the protocol provided in Section 17. Contractor agrees not to challenge the legality, validity or binding nature of Section I D of Exhibit A.

20. **REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

21. **TIME IS OF THE ESSENCE.** Time is of the essence in this Agreement and each covenant and term is a condition herein.

22. **NO WAIVER OF DEFAULT.** No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

23. **ENTIRE AGREEMENT AND AMENDMENT.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

24. **SUCCESSORS AND ASSIGNS.** All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

25. **COMPLIANCE WITH LAW.** CONTRACTOR shall, at his sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY be a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

26. **CALIFORNIA LAW.** This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

27. **EXECUTION OF COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

28. **AUTHORITY.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

29. **PRECEDENCE.** In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

30. **FORCE MAJEURE.** Provided that the requirements of this section are met, Contractor shall be excused from performance and shall not be liable for failure to perform under this Agreement if

Contractor's performance is prevented or delayed by acts of terrorism, acts of God, landslides, lightning, forest fires, storms, floods, typhoons, hurricanes, severe weather, freezing, earthquakes, volcanic eruptions, other natural disasters or the imminent threat of such natural disasters, pandemics, quarantines, civil disturbances, acts of the public enemy, wars, blockades, public riots, strikes, lockouts, or other labor disturbances, acts of government or governmental restraint or other causes, whether of the kind enumerated or otherwise, and whether foreseeable or unforeseeable, that are not reasonably within the control of the Contractor ("Force Majeure"). If as a result of a Force Majeure event, Contractor is unable wholly or partially to meet its obligations under this Contract, it shall give the County promptly written notice of the Force Majeure event, describing it in reasonable detail. The Contractor's obligations under this Contract shall be suspended, but only with respect to the particular component of obligations affected by the Force Majeure and only for the period during which the Force Majeure exists.

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Agreement for Services of Independent Contractor between the **County of Santa Barbara** and **Valley Garbage and Rubbish Company, Inc.**

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

COUNTY OF SANTA BARBARA

By: _____
Chair, Board of Supervisors

Date: _____

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

CONTRACTOR

By: _____
Deputy

By: _____
SocSec or TaxID Number: _____

APPROVED AS TO FORM:
STEPHEN SHANE STARK
COUNTY COUNSEL

APPROVED AS TO ACCOUNTING FORM:
ROBERT W GEIS, CPA
AUDITOR-CONTROLLER

By: _____
Deputy County Counsel

By: _____
Deputy

APPROVED AS TO FORM:
RAY AROMATORIO,
RISK PROGRAM ADMINISTRATOR

By: _____
Risk Program Administrator

EXHIBIT A

STATEMENT OF WORK

PROCESSING OF ORGANICS COLLECTED BY SOLID WASTE COLLECTION SYSTEM Santa Ynez and Santa Maria Valleys

I. Processing

A. The purpose of this contract is to enable Contractor to process the organics collected in the Santa Maria, Lompoc, and Santa Ynez Valleys under its franchise agreements until June 2011. The Contractor shall supply all labor and equipment necessary to receive and process all organics resulting from this contract. For purposes of this contract, "organics" is defined as all material delivered to the Contractor's facility collected in containers designated specifically for organics pursuant to the existing Franchise Agreements between the County and Waste Management, Inc. dated June 2003.

Contractor shall deliver all organic materials processed pursuant to this agreement to Engel & Gray's composting facility located at 250 S. Ray Road, Santa Maria, California, pursuant to a subcontract agreement to be entered into between CONTRACTOR and Engel & Gray. Contractor shall not landfill, burn or convert for burning the materials diverted, unless otherwise authorized by the County, and except for residual amounts of non-compostable solid waste consistent with industry norms.

B. The Contractor shall receive and process organics without limitation as to amount, weight or periodic variances in quantity generated. The exact quantity, quality, or mix of organics to be delivered under the contract cannot be guaranteed.

C. Contractor will assume liability for the County's organics materials, including inadvertent hazardous waste contamination, once the organics materials are received at the contractor's facility up to a maximum of \$7,000.00. Notwithstanding the foregoing, the Contractor shall have no obligation to collect organic materials which contain obvious contamination or other non-conforming waste and may reject such materials.

D. Contractor shall transport and deliver to a permitted disposal facility approved by County all residue remaining after processing of organics. Contractor shall select a disposal facility which results in the least expensive disposal option for the County, taking into account tipping fees thereat and transportation costs thereto and compliance with applicable law (including Subtitle D requirements), consistent with public health and safety and Contractor's obligations hereunder.

County reserves the right to disapprove of Contractor's selected disposal facility, in which case Contractor will designate an alternative, also subject to County approval. If public health, safety and/or fiscal interest requires or compliance with applicable law necessitates, then the County may designate a disposal facility.

E. Contractor acknowledges that the County's remedy of damages for a breach of Section I D by Contractor may be inadequate and, consequently, the County shall be entitled to all available equitable remedies, including specific performance and injunctive relief, for the following reasons:

(1) failure of Contractor to transport and deliver all Organics residue refuse to the disposal facility, as approved by the County, (a "**Delivery Default**") may subject County to consequent increased risk of liability for environmental damage due to release or threatened release of hazardous or toxic substances, petroleum products and other materials, including water or ground water contamination

therefrom; replacement or restoration of natural resources arising therefrom; and repair, cleanup or detoxification of the non-approved disposal facility and any removal, remedial, response, closure or other plan with respect thereto, whether under Section 107(e) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") 42 U.S. C. Section 9607(e) or California Health and Safety Code Section 25364 or otherwise;

(2) a Delivery Default may subject County to loss of disposal fee revenue at County-owned disposal facilities, thereby jeopardizing the fiscally sound and environmentally safe operation of such disposal facilities and system; and

(3) a delivery Default is not in the best economic, health and safety interest of the County's residents and ratepayers.

II. Liability and Permits

A. Contractor warrants that it possesses, and will possess throughout the term of this contract, all federal, state and local permits needed to operate its facility that will accept and process organics.

B. In the case that the Contractor or the Contractor's facility is temporarily (for up to a maximum of 30 days unless otherwise authorized in writing by the Director of Public Works) unable to accept organics for any reason, the Contractor will divert organics to an alternate location arranged by the Contractor and approved by the County. The Contractor will pay for the difference in the tip fee between the fee charged at the Contractor's facility under the provisions of this contract and the fee charged at the alternate facility arranged by the Contractor.

C. In the event such failure to accept materials is the result of a force majeure event, then Contractor may request an adjustment to the rates charged under this Agreement to account for any increased costs associated with using an alternate facility, which shall not be unreasonably withheld by County.

III. Reporting, Record Keeping and Invoices

A. Contractor will use a certified truck scale to weigh all incoming loads of organics. The weight scales will be calibrated in accordance with procedures established by the applicable state and local authorities. Each loaded vehicle shall be weighed upon entering the Contractor's processing facility and weighed after tipping the organics materials. Contractor shall maintain a daily log of the sequential ticket number, vehicle number, gross vehicle weight, and tare vehicle weight. Copies of this information will be available to the County when requested.

B. Contractor will be required to document, in a form approved by the County, the average amount of contamination in each load of organics. At the County's expense, a random sort of the collected organics material may be conducted, prior to processing at the facility, at any time to verify contamination rates.

C. On a monthly basis, Contractor will submit a report, in a form approved by the County, containing a compilation of the weight logs and contamination logs, to the County representative designated in the contract by the fifteenth of the month following the service period.

D. Upon County request not more than three times on or before June 30, 2011, County may cause an independent certified public accountant to perform a special procedures review of internal control systems used by Contractor. Within ten days of such request, Contractor shall advance County \$15,000 to conduct such review, and within ten days following County's written notice to Contractor stating the total Direct Costs of such review, as such term is defined in the Franchise Agreement described in Section I hereof, Contractor shall reimburse County the incremental costs, if any, in excess of such

advance; provided that if the total Direct Costs of such review are less than such advance, County will reimburse Contractor the unexpended balance of such advance, and provided further, that County will allow Contractor to recover such reimbursement through solid waste collection rates charged for services in the succeeding contract year as described in Section B of Exhibit B hereto. Contractor shall use Reasonable Business Efforts, as such term is defined in the Franchise Agreement described in Section I hereof, to remedy any weaknesses identified by the accountant conducting such review and implement any improvements suggested thereby.

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EXHIBIT B

PAYMENT ARRANGEMENTS Periodic Compensation

A. Payment for services and /or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as reasonably determined by COUNTY. Payment for services set forth in this Agreement shall be based upon a per ton rate of \$32.73. The \$32.73 per ton rate shall be escalated at the beginning of each fiscal year beginning July 1, 2008 by computing the percentage change in the CPI Index for each February 1, available each March 1, commencing April 1 2008, from the index level as of the date thereof, and multiplying the applicable amount to be escalated by such percentage change. CPI Index means the Pacific Cities and U.S City Average All-Items (Los Angeles-Anaheim-Riverside) (All Urban Consumers 1982-84=100) compiled and published by the United States Department of Labor, Bureau of Labor Statistics. In addition, the rates set forth in this Agreement shall be adjusted to account for other Contractor costs as set forth in Exhibit A sections II. C and III. D.

B. This contract provides that the cost for organics processing is included in the solid waste collection rates that are established and approved by the Board of Supervisors each year and paid by customers to CONTRACTOR bimonthly pursuant to the collection Franchise Agreements between the County of Santa Barbara and Waste Management, Inc. dated June 2003. The cost for organics processing that is included in the rate is derived by multiplying the tonnage of organics collected bimonthly from each customer by \$32.73 (or the adjusted rate as identified in paragraph A).

C. Monthly, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE a report in compliance with the reporting requirements contained in Section III C of Exhibit A.

EXHIBIT C

STANDARD INDEMNIFICATION AND INSURANCE PROVISIONS for contracts NOT requiring professional liability insurance

INDEMNIFICATION

CONTRACTOR 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 CONTRACTOR 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.

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

Without limiting the CONTRACTOR's indemnification of the COUNTY, CONTRACTOR shall procure the following required insurance coverages at its sole cost and expense. All insurance coverage is to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Such insurance coverage shall be maintained during the term of this Agreement. Failure to comply with the insurance requirements shall place CONTRACTOR in default. Upon request by the COUNTY, CONTRACTOR shall provide a certified copy of any insurance policy to the COUNTY within ten (10) working days.

1. Workers' Compensation Insurance: Statutory Workers' Compensation and Employers Liability Insurance shall cover all CONTRACTOR's staff while performing any work incidental to the performance of this Agreement. The policy shall provide that no cancellation, or expiration or reduction of coverage shall be effective or occur until at least thirty (30) days after receipt of such notice by the COUNTY. In the event CONTRACTOR is self-insured, it shall furnish a copy of Certificate of Consent to Self-Insure issued by the Department of Industrial Relations for the State of California. This provision does not apply if CONTRACTOR has no employees as defined in Labor Code Section 3350 et seq. during the entire period of this Agreement and CONTRACTOR submits a written statement to the COUNTY stating that fact.
2. General and Automobile Liability Insurance: The general liability insurance shall include bodily injury, property damage and personal injury liability coverage, shall afford coverage for all premises, operations, products and completed operations of CONTRACTOR and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the CONTRACTOR in the indemnity and hold harmless provisions of the Indemnification Section of this Agreement between COUNTY and CONTRACTOR. The automobile liability insurance shall cover all owned, non-owned and hired motor vehicles that are operated on behalf of CONTRACTOR pursuant to CONTRACTOR's activities hereunder. CONTRACTORS shall require all subcontractors to be included under its policies or furnish separate certificates and endorsements to meet the standards of these provisions by each subcontractor. COUNTY, its officers, agents, and employees shall be Additional Insured status on any policy. A cross liability clause, or equivalent wording, stating that coverage will apply separately to each named or additional insured as if separate policies had been issued to each shall be included in the

policies. A copy of the endorsement evidencing that the policy has been changed to reflect the Additional Insured status must be attached to the certificate of insurance. The limit of liability of said policy or policies for general and automobile liability insurance shall not be less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Any deductible or Self-Insured Retention {SIR} over \$10,000 requires approval by the COUNTY.

Said policy or policies shall include a severability of interest or cross liability clause or equivalent wording. Said policy or policies shall contain a provision of the following form:

"Such insurance as is afforded by this policy shall be primary and non-contributory to the full limits stated in the declarations, and if the COUNTY has other valid and collectible insurance for a loss covered by this policy, that other insurance shall be excess only."

If the policy providing liability coverage is on a 'claims-made' form, the CONTRACTOR is required to maintain such coverage for a minimum of three years following completion of the performance or attempted performance of the provisions of this agreement. Said policy or policies shall provide that the COUNTY shall be given thirty (30) days written notice prior to cancellation or expiration of the policy or reduction in coverage.

CONTRACTOR shall submit to the office of the designated COUNTY representative certificate(s) of insurance documenting the required insurance as specified above prior to this Agreement becoming effective. COUNTY shall maintain current certificate(s) of insurance at all times in the office of the designated County representative as a condition precedent to any payment under this Agreement. Approval of insurance by COUNTY or acceptance of the certificate of insurance by COUNTY shall not relieve or decrease the extent to which the CONTRACTOR may be held responsible for payment of damages resulting from CONTRACTOR'S services of operation pursuant to the contract, nor shall it be deemed a waiver of COUNTY'S rights to insurance coverage hereunder.

In the event the CONTRACTOR is not able to comply with the COUNTY'S insurance requirements, COUNTY may, at their sole discretion and at the CONTRACTOR'S expense, provide compliant coverage.

The above insurance requirements are subject to periodic review by the COUNTY. The COUNTY's Risk Manager is authorized to change the above insurance requirements, with the concurrence of County Counsel, to include additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against the COUNTY or inflation. This option may be exercised during any amendment of this Agreement that results in an increase in the nature of COUNTY's risk and such change of provisions will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits must be made by written amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of acceptance of the amendment or modification.

