

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 Coast Valley Substance Abuse Treatment Center with an address at 1125 East Clark Ave. Suite A2, Santa Maria, CA (hereafter CONTRACTOR) wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

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

1. **DESIGNATED REPRESENTATIVE**

Deputy Director – Clinical Operations at phone number 805-681-5220 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Matthew Hamlin at phone number 8057391512 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 personal delivery or facsimile, or with postage prepaid by first class mail, registered or certified mail, or express courier service, as follows:

To COUNTY: Director
Santa Barbara County
Alcohol, Drug, and Mental Health Services
300 N. San Antonio Rd, Bldg. 3
Santa Barbara, CA 93110
Fax: 805-681-5262

To CONTRACTOR: Matthew Hamlin, Executive Director
Coast Valley Substance Abuse Treatment Center
1125 East Clark Ave. Suite A2
Santa Maria, CA 93455
Fax: 805-739-2855

or at such other address or to such other person that the parties may from time to time designate in accordance with this Notices section. If sent by first class mail, notices and consents under this section shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

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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 2/12/2014 and end performance upon completion, but no later than 6/30/2015 unless otherwise directed by COUNTY or unless earlier terminated.

5. COMPENSATION TO COUNTY

CONTRACTOR shall pay County an administrative fee per client served under this Agreement in accordance with the terms of Exhibit B, attached hereto and incorporated herein by reference. Contractor shall electronically report services to County on a monthly basis. Unless otherwise specified in Exhibit B, Contractor shall pay County within thirty (30) days following the month of service.

6. INDEPENDENT CONTRACTOR

It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venturer, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. 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. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

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.

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8. DEBARMENT AND SUSPENSION

CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. TAXES

CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. 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.

10. CONFLICT OF INTEREST

CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, 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. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

COUNTY shall be the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, 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 of such items to other parties except after prior written approval of COUNTY. Contractor shall be the legal owner and Custodian of Records for all County client files generated pursuant to this Agreement, and shall comply with all Federal and State confidentiality laws, including Welfare and Institutions Code (WIC) §5328; 42 United States Code (U.S.C.) §290dd-2; and 45 CFR, Parts 160 – 164 setting forth the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Contractor shall inform all of its officers, employees, and agents of the confidentiality provision of said laws. Contractor further agrees to provide County with copies of all County client file documents resulting from this Agreement without requiring any further written release of information. Within HIPAA guidelines, County shall have the unrestricted authority to publish, disclose, distribute, and/or otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents,

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reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

12. NO PUBLICITY OR ENDORSEMENT

CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR, except to acknowledge certification of service program by County. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

13. COUNTY PROPERTY AND INFORMATION

All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

14. 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 all records until such time that the State Department of Health Care Services completes all actions associated with the final audit, including appeals, for the fiscal year(s) covered by this Agreement, or not less than four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. 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. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the

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Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

15. INDEMNIFICATION AND INSURANCE

CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

16. 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.

17. NONEXCLUSIVE AGREEMENT

CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

18. NON-ASSIGNMENT

CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

19. TERMINATION

A. By COUNTY. COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for nonappropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.

1. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.

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2. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.
- B. Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports, and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory services 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 affect any right or remedy which COUNTY may have in law or equity.

20. 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.

21. 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.

22. 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.

23. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement and each covenant and term is a condition herein.

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24. 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.

25. 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. Requests for changes to the terms and conditions of this agreement after April 1 of the Fiscal Year for which the change would be applicable shall not be considered. All requests for changes shall be in writing. Changes shall be made by an amendment pursuant to this Section. Any amendments or modifications that do not materially change the terms of this Agreement (such as changes to the Designated Representative or Contractor's address for purposes of Notice) may be approved by the director of Alcohol, Drug & Mental Health Services. The Board of Supervisors of the County of Santa Barbara must approve all other amendments and modifications.

26. 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.

27. COMPLIANCE WITH LAW

CONTRACTOR shall, at its 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 is 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.

28. CALIFORNIA LAW AND JURISDICTION

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.

29. 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

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as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

30. AUTHORITY

All signatories and 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.

31. SURVIVAL

All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

32. 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.

33. COMPLIANCE WITH HIPAA.

Contractor is expected to adhere to Health Insurance Portability and Accountability Act (HIPAA) regulations and to develop and maintain comprehensive patient confidentiality policies and procedures, provide annual training of all staff regarding those policies and procedures, and demonstrate reasonable effort to secure written and/or electronic data. The parties should anticipate that this Agreement will be modified as necessary for full compliance with HIPAA.

34. COURT APPEARANCES.

Upon request, Contractor shall cooperate with County in making available necessary witnesses for court hearings and trials, including Contractor's staff that have provided treatment to a client referred by County who is the subject of a court proceeding. County shall issue Subpoenas for the required witnesses upon request of Contractor.

35. PRIOR AGREEMENTS.

Upon execution, this Agreement supersedes all prior agreements between County and Contractor related to the scope of work contained in this Agreement.

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THIS AGREEMENT INCLUDES:

- A. EXHIBIT A – Statement of Work
- B. EXHIBIT B – Fees and Payment to **COUNTY**
 - EXHIBIT B-1 – Schedule of Fees
 - EXHIBIT B-2 – Sliding Fee Schedule for PC 1000 Program
- C. EXHIBIT C – Standard Indemnification and Insurance Provisions

Agreement

Agreement for Services of Independent Contractor between the County of Santa Barbara and Coast Valley Substance Abuse Treatment Center.

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

ATTEST:
MONA MIYASATO, COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy

Date: _____

RECOMMENDED FOR APPROVAL:
ALCOHOL, DRUG, AND MENTAL HEALTH
SERVICES
TAKASHI WADA, MD, MPH
INTERIM DIRECTOR

By _____
Director

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By _____
Deputy County Counsel

COUNTY OF SANTA BARBARA

By: _____
STEVE LAVAGNINO, CHAIR
BOARD OF SUPERVISORS

Date: _____

CONTRACTOR:
MR. MATTHEW HAMLIN, EXECUTIVE DIRECTOR
COAST VALLEY SUBSTANCE ABUSE
TREATMENT CENTER

By: _____
Tax Id No 77-0527812

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

By _____
Deputy

APPROVED AS TO FORM:
RAY AROMATORIO
RISK MANAGER

By: _____

Exhibit A

STATEMENT OF WORK

1. SERVICES. Contractor agrees to provide services, as described below:

A. **PC 1000/DRUG DIVERSION.** Contractor shall provide a drug diversion program, certified by the County of Santa Barbara, Alcohol and Drug Program (ADP), that provides treatment services to court-ordered adults referred for drug diversion, per California Penal Code (PC) Section 1000. Clients are expected to maintain an alcohol and drug free lifestyle while in treatment.

i. Contractor shall provide services at 133 N. F Street, Lompoc, CA 93436

ii. Contractor shall provide the following services, utilizing a curriculum approved by County ADP, in accordance with acceptable science-based treatment protocols and best practices. Services include:

1. Individual and group counseling;

2. Psychoeducation regarding substance abuse;

3. Self-help programs/activities and supports;

4. Relapse prevention strategies;

5. Providing clients with community referrals to ancillary services.

iii. Contractor shall administer the Addiction Severity Index (ASI) or equivalent biopsychosocial assessment upon enrolling clients into treatment.

iv. Contractor shall abide by the provisions set forth in the PC Section 1000 and 1211 and the County Drug Diversion Standards, Policies and Procedures.

v. Contractor shall provide drug testing services for each client in treatment in accordance with the ADP Drug Testing Policy and Procedure.

vi. Contractor agrees, for clients in treatment, to maintain and furnish to County upon request, an internal review process that ensures medical necessity and quality of care. This review process will include, but is not limited to the following: Client Files; Treatment Plans; Progress Notes; Consent to Treat; Clinical Records; Client Survey and Logs; and Release of Information.

2. FEES. Contractor shall assess client fees in accordance with California Penal Code (PC) 1001.16 and Exhibit B.

3. PROPER REPORT.

A. On a monthly basis, within 10 calendar days of the end of the month in which services are delivered, Contractor shall submit an electronic report to County (adpfinance@co.santa-barbara.ca.us) and shall include the total number of clients enrolled in each program and the total amount of client fees collected by program. Contractor's monthly report shall be

Exhibit A

accompanied by all client and service provision information required by County and the State Alcohol and Drug Program.

- B. Submission of Contractor's reports (electronic or otherwise) to County certifies that Contractor has read, understands and agrees to the following terms printed on the report:

"I hereby certify that all units of service, assessed client fees, and clients reported are true and are for purposes in accordance with agreements set forth in the awarded contract. The contract agency, to the best of its knowledge, has fully complied with the terms and conditions of said contract."

4. **PERIODIC REVIEW.** County shall assign staff as contract monitors to conduct periodic review meetings with Contractor's staff regarding quality of clinical services, fiscal and overall performance activity. ADMHS staff shall conduct periodic on-site reviews, a minimum of annually, of Contractor's client charting.

5. NOTIFICATION REQUIREMENTS.

- A. Contractor shall immediately notify County Designated Representative in the event of any suspected or actual misappropriation of funds under Contractor's control; known serious complaints against licensed/certified staff; restrictions in practice or license/certification as stipulated by a State agency; staff privileges restricted at a hospital; legal suits initiated specific to the Contractor's practice; initiation of criminal investigation of the Contractor; or other action instituted which affects Contractor's license/certification or practice (for example, sexual harassment accusations).
- B. Contractor shall immediately notify the County Designated Representative in the event a client with a case file (episode) open to the County presents any of the following client indices: suicidal risk factors, homicidal risk factors, assaultive risk factors, side effects requiring medical attention or observation, behavioral symptoms presenting possible health problems, or any behavioral symptom that may compromise the appropriateness of the placement.
- C. Contractor shall immediately notify the County Designated Representative, regardless of whether the client has a case file (episode) open with the County, should any of the following events occur: death, fire setting, police involvement, media contact, any behavior leading to potential liability, any client behavioral symptom that may compromise the appropriateness of the placement.
- D. "Immediately" means as soon as possible but in no event more than twenty-four (24) hours after the triggering event. Contractor shall train all personnel in the use of the ADMHS Compliance Hotline.

Exhibit B
FEES AND PAYMENT TO COUNTY

1. FEE COLLECTION.

- A. PC 1000/Drug Diversion. For PC 1000/Drug Diversion program services rendered under this Agreement, Contractor will assess a \$1,000 fee to each client unless the client is eligible for a lower fee as described below. Contractor shall pay County an administrative fee of \$50.00 per client enrolled.

In consideration of the \$50.00 administrative fee paid from Contractor to County for the PC 1000/Drug Diversion program, County shall: provide all services as described in the California Penal Code Section 1211, including but not limited to: administering certification program procedures; assuring compliance with Drug Diversion standards, policies and procedures; providing technical assistance; and monitoring the program services semi-annually.

1. In providing PC 1000/Drug Diversion treatment services as described in Exhibit A, Contractor agrees to assess client fees in accordance with PC 1001.16.
2. Fee collection shall be based on Contractor's determination of client's ability to pay in accordance with the Sliding Fee Schedule (Exhibit B-2). PC 1000/Drug Diversion fees shall not exceed the actual cost of services provided.

- B. Additional fees may be charged to client by Contractor for any returned check, transfers, reinstatement, and no shows, as approved by the State Alcohol and Drug Program and/or County, as described in Exhibit B-1.

- 2. PAYMENT TO COUNTY.** On a monthly basis, by the thirtieth (30th) of the month following the month of service, Contractor shall pay the appropriate fees due to County, as detailed in Exhibit B, Section 4, Payment Processing.

Contractor agrees that the program services operating under this Agreement will be self-supporting through client fees as defined in Exhibit A. County is under no obligation to pay Contractor any fee or charges in relation to this service agreement.

- 3. ALLOWABLE COSTS AND ACTIVITIES.** A determination of Contractor's satisfactory performance shall be based upon the scope and methodology of the services provided as described in Exhibit A in relation to the costs, expenses, overhead charges and hourly rates for personnel. Monthly service reports submitted by Contractor shall be in accordance with Exhibit A and must contain sufficient detail and supporting documentation to enable an audit of the costs.

4. PAYMENT PROCESSING.

- A. County will evaluate the electronic monthly report Contractor submits to determine if the fees paid to County are within the Scope of Exhibit A, Exhibit B, and Exhibit B-1.
- B. Any monthly report and/or reports submitted by Contractor to County that have errors or omissions will be immediately returned to Contractor for correction.
- C. In the event Contractor identifies a reporting error on a current monthly report and/or report already submitted to County, Contractor will immediately notify County of the error. Any corrections to the current monthly report shall be corrected by Contractor and returned to County within ten (10) days, or prior to submitting the next monthly report. Any modifications, errors or omissions that Contractor reports to County after the time period specified above shall not be processed but shall be considered and included by County when the final adjustments are made to Contractor's year-end cost report.

Exhibit B

- D. Failure on behalf of County to discover or object to any unsatisfactory work, reporting or payment will not constitute a waiver of County's right to require Contractor to correct such work, reporting or payment, or to seek any other legal remedy.

5. COUNTY'S DESIGNATED REPRESENTATIVE

Alcohol, Drug and Mental Health Services
Attn: ADP Finance
300 North San Antonio Road, Bldg 3
Santa Barbara, CA 93110

6. COST REPORT

- A. Submission of Cost Report. Within forty-five (45) days after the close of each Fiscal Year covered by this Agreement, Contractor shall provide County with an accurate and complete Annual Cost Report with a statement of expenses and revenue for the prior fiscal year. The Annual Cost Report shall be prepared by Contractor in accordance with all applicable Federal, State and County requirements and generally accepted accounting principles. Contractor shall allocate direct and indirect costs to and between programs, cost centers, services, and funding sources in accordance with such requirements and consistent with prudent business practice. All revenues received by Contractor shall be reported with its annual Cost Report, and shall be used to offset gross cost. Contractor shall maintain source documentation to support the claimed costs, revenues and allocations which shall be available at any time to Director or designee upon reasonable notice.
- B. Cost Report to be Used for Settlement. The Cost Report shall be the final financial and statistical report submitted by Contractor to County, and shall serve as the basis for settlement to Contractor, as described in Sections 7 and 8 of this Exhibit B. Contractor shall document that costs are reasonable and allowable and directly or indirectly related to the services to be provided hereunder.
- C. Penalties. In addition, failure of Contractor to submit accurate and complete Annual Cost Report(s) by the ninetieth (90th) day after the close of the Fiscal Year or the expiration or termination date of this Agreement shall result in:
1. A Late Penalty of ONE HUNDRED DOLLARS (\$100) for each day that the accurate and complete Annual Cost Report(s) is (are) not submitted. The Late Penalty shall be assessed separately on each outstanding Annual Cost Report. The Late Penalty shall commence on the ninety-first (91st) day following either the end of the applicable Fiscal Year or the expiration or termination date of this Agreement. County shall invoice Contractor for the Late Penalty assessed against Contractor .
 2. In the event that Contractor does not submit accurate and complete Annual Cost Report(s) by the one-hundred twentieth (120th) day following either the end of the applicable Fiscal Year or the expiration or termination date of this Agreement, then County shall terminate any current contracts entered into with Contractor for Programs covered by the outstanding Annual Cost Reports.
- D. Audited Financial Reports: Each year of the Contract, the Contractor shall submit to County a copy of their audited annual financial statement, including management comments. This report shall be submitted within thirty (30) days after the report is received by Contractor.

Exhibit B

- E. Single Audit Report: If Contractor is required to perform a single audit, per the requirements of OMB circular A-133, Contractor shall submit a copy of such single audit to County within thirty (30) days of receipt.

7. PREAUDIT COST REPORT SETTLEMENT.

- A. Preaudit Cost Report Settlement. Based on the Annual Cost Report(s) submitted pursuant to this Exhibit B Section 6 (Cost Reports) and approved client enrollment, at the end of each Fiscal Year or portion thereof that this Agreement is in effect, the State and County will perform a pre-audit cost report settlement. Such settlement will be subject to the terms and conditions of this Agreement and any other applicable State and/or Federal statutes, regulations, policies and procedures, or requirements pertaining to cost reporting and settlements for applicable Federal and/or State programs. Settlement shall also be adjusted to the lower of Contractor's actual costs.
- B. Issuance of Findings. County's issuance of its pre-audit cost report settlement findings shall take place no later than one-hundred-twenty (120) calendar days after the receipt by County from the State of the State's Final Cost Report Settlement package for a particular fiscal year.
- C. Payment. In the event that Contractor adjustments based on any of the above methods indicate an amount due the County, Contractor shall pay County by direct payment within thirty (30) days of the issuance of County's pre-audit cost report settlement findings..

8. AUDITS, AUDIT APPEALS AND POSTAUDIT FINAL SETTLEMENT:

- A. Audit by Responsible Auditing Party. At any time during the term of this Agreement or after the expiration or termination of this Agreement, in accordance with State and federal law, authorized representatives from the County, State or Federal governments (Responsible Auditing Party) may conduct an audit of Contractor regarding the Alcohol and Drug Program services/activities provided hereunder.
- B. Settlement. Contractor shall be responsible for any disallowance taken by the Responsible Auditing Party, as a result of any audit exception that is related to the Contractor's responsibilities herein. In the case of a State Drug Medi-Cal audit the State and County will perform a post-audit Drug Medi-Cal settlement that is based on State audit findings. Such settlement will take place when the State initiates its settlement action which customarily is after the issuance of the audit report by the State and before the State's audit appeal process. However, if the Responsible Auditing Party stays its collection of any amounts due or payable because of the audit findings, County will also stay its settlement of the same amounts due or payable until the Responsible Auditing Party initiates its settlement action with County.
- C. Invoice for Amounts Due. County shall issue an invoice to Contractor for any amount due County after the Responsible Auditing Party issues an audit report. The amount on the County invoice is due by Contractor to County thirty (30) calendar days from the date of the invoice.
- D. Appeal. Contractor may appeal any such audit findings in accordance with the audit appeal process established by the Responsible Auditing Party performing the audit.

**Exhibit B-1
SCHEDULE OF FEES**

The program services, as listed below and described in Exhibit A have been mutually agreed to by Contractor and County.

| TYPE OF SERVICE | Projected Annual Client Fees Collected | County Administrative Fee Per Client | Projected Annual Fees Paid to County |
|--------------------------------|--|--------------------------------------|--------------------------------------|
| PC 1000/Drug Diversion Program | \$37,965 | \$50 | \$1,000 |

| PC 1000 Participant Fee Schedule | |
|---|----------|
| PC 1000 Program Service Fee | \$1,000 |
| Other Fees | |
| Return Check | \$25 |
| Transfer | \$45 |
| Reinstatement | \$40 |
| Make Up | \$15 |
| Drug Test | Included |

Exhibit B-2 Fee Schedule

COUNTY OF SANTA BARBARA ALCOHOL & DRUG PROGRAM FEE SCHEDULE FY 2013-14

ANNUAL GROSS FAMILY INCOME (\$)

NUMBER OF DEPENDENTS

| FEE PER VISIT (\$) | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------------|--------|--------|--------|--------|--------|--------|---------|---------|
| 5 | 11,490 | 15,510 | 19,530 | 23,550 | 27,570 | 31,590 | 35,610 | 39,630 |
| 10 | 15,510 | 19,530 | 23,550 | 27,570 | 31,590 | 35,610 | 39,630 | 43,650 |
| 15 | 19,530 | 23,550 | 27,570 | 31,590 | 35,610 | 39,630 | 43,650 | 47,670 |
| 20 | 23,550 | 27,570 | 31,590 | 35,610 | 39,630 | 43,650 | 47,670 | 51,690 |
| 25 | 27,570 | 31,590 | 35,610 | 39,630 | 43,650 | 47,670 | 51,690 | 55,710 |
| 30 | 31,590 | 35,610 | 39,630 | 43,650 | 47,670 | 51,690 | 55,710 | 59,730 |
| 35 | 35,610 | 39,630 | 43,650 | 47,670 | 51,690 | 55,710 | 59,730 | 63,750 |
| 40 | 39,630 | 43,650 | 47,670 | 51,690 | 55,710 | 59,730 | 63,750 | 67,770 |
| 45 | 43,650 | 47,670 | 51,690 | 55,710 | 59,730 | 63,750 | 67,770 | 71,790 |
| 50 | 47,670 | 51,690 | 55,710 | 59,730 | 63,750 | 67,770 | 71,790 | 75,810 |
| 55 | 51,690 | 55,710 | 59,730 | 63,750 | 67,770 | 71,790 | 75,810 | 79,830 |
| 60 | 55,710 | 59,730 | 63,750 | 67,770 | 71,790 | 75,810 | 79,830 | 83,850 |
| 65 | 59,730 | 63,750 | 67,770 | 71,790 | 75,810 | 79,830 | 83,850 | 87,870 |
| 70 | 63,750 | 67,770 | 71,790 | 75,810 | 79,830 | 83,850 | 87,870 | 91,890 |
| 75 | 67,770 | 71,790 | 75,810 | 79,830 | 83,850 | 87,870 | 91,890 | 95,910 |
| 80 | 71,790 | 75,810 | 79,830 | 83,850 | 87,870 | 91,890 | 95,910 | 99,930 |
| 85 | 75,810 | 79,830 | 83,850 | 87,870 | 91,890 | 95,910 | 99,930 | 103,950 |
| 90 | 79,830 | 83,850 | 87,870 | 91,890 | 95,910 | 99,930 | 103,950 | 107,970 |

MONTHLY GROSS FAMILY INCOME (\$)

NUMBER OF DEPENDENTS

| FEE PER VISIT (\$) | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------------|-------|-------|-------|-------|-------|-------|-------|-------|
| 5 | 958 | 1,293 | 1,628 | 1,963 | 2,298 | 2,633 | 2,968 | 3,303 |
| 10 | 1,293 | 1,628 | 1,963 | 2,298 | 2,633 | 2,968 | 3,303 | 3,638 |
| 15 | 1,628 | 1,963 | 2,298 | 2,633 | 2,968 | 3,303 | 3,638 | 3,973 |
| 20 | 1,963 | 2,298 | 2,633 | 2,968 | 3,303 | 3,638 | 3,973 | 4,308 |
| 25 | 2,298 | 2,633 | 2,968 | 3,303 | 3,638 | 3,973 | 4,308 | 4,643 |
| 30 | 2,633 | 2,968 | 3,303 | 3,638 | 3,973 | 4,308 | 4,643 | 4,978 |
| 35 | 2,968 | 3,303 | 3,638 | 3,973 | 4,308 | 4,643 | 4,978 | 5,313 |
| 40 | 3,303 | 3,638 | 3,973 | 4,308 | 4,643 | 4,978 | 5,313 | 5,648 |
| 45 | 3,638 | 3,973 | 4,308 | 4,643 | 4,978 | 5,313 | 5,648 | 5,983 |
| 50 | 3,973 | 4,308 | 4,643 | 4,978 | 5,313 | 5,648 | 5,983 | 6,318 |
| 55 | 4,308 | 4,643 | 4,978 | 5,313 | 5,648 | 5,983 | 6,318 | 6,653 |
| 60 | 4,643 | 4,978 | 5,313 | 5,648 | 5,983 | 6,318 | 6,653 | 6,988 |
| 65 | 4,978 | 5,313 | 5,648 | 5,983 | 6,318 | 6,653 | 6,988 | 7,323 |
| 70 | 5,313 | 5,648 | 5,983 | 6,318 | 6,653 | 6,988 | 7,323 | 7,658 |
| 75 | 5,648 | 5,983 | 6,318 | 6,653 | 6,988 | 7,323 | 7,658 | 7,993 |
| 80 | 5,983 | 6,318 | 6,653 | 6,988 | 7,323 | 7,658 | 7,993 | 8,328 |
| 85 | 6,318 | 6,653 | 6,988 | 7,323 | 7,658 | 7,993 | 8,328 | 8,663 |
| 90 | 6,653 | 6,988 | 7,323 | 7,658 | 7,993 | 8,328 | 8,663 | 8,998 |

Exhibit B-2 Fee Schedule

COUNTY OF SANTA BARBARA ALCOHOL & DRUG PROGRAM FEE SCHEDULE FY 2014-15

ANNUAL GROSS FAMILY INCOME (\$) NUMBER OF DEPENDENTS

| FEE PER VISIT (\$) | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------------|--------|--------|--------|--------|--------|---------|---------|---------|
| 5 | 11,670 | 15,730 | 19,790 | 23,850 | 27,910 | 31,970 | 36,030 | 40,090 |
| 10 | 15,730 | 19,790 | 23,850 | 27,910 | 31,970 | 36,030 | 40,090 | 44,150 |
| 15 | 19,790 | 23,850 | 27,910 | 31,970 | 36,030 | 40,090 | 44,150 | 48,210 |
| 20 | 23,850 | 27,910 | 31,970 | 36,030 | 40,090 | 44,150 | 48,210 | 52,270 |
| 25 | 27,910 | 31,970 | 36,030 | 40,090 | 44,150 | 48,210 | 52,270 | 56,330 |
| 30 | 31,970 | 36,030 | 40,090 | 44,150 | 48,210 | 52,270 | 56,330 | 60,390 |
| 35 | 36,030 | 40,090 | 44,150 | 48,210 | 52,270 | 56,330 | 60,390 | 64,450 |
| 40 | 40,090 | 44,150 | 48,210 | 52,270 | 56,330 | 60,390 | 64,450 | 68,510 |
| 45 | 44,150 | 48,210 | 52,270 | 56,330 | 60,390 | 64,450 | 68,510 | 72,570 |
| 50 | 48,210 | 52,270 | 56,330 | 60,390 | 64,450 | 68,510 | 72,570 | 76,630 |
| 55 | 52,270 | 56,330 | 60,390 | 64,450 | 68,510 | 72,570 | 76,630 | 80,690 |
| 60 | 56,330 | 60,390 | 64,450 | 68,510 | 72,570 | 76,630 | 80,690 | 84,750 |
| 65 | 60,390 | 64,450 | 68,510 | 72,570 | 76,630 | 80,690 | 84,750 | 88,810 |
| 70 | 64,450 | 68,510 | 72,570 | 76,630 | 80,690 | 84,750 | 88,810 | 92,870 |
| 75 | 68,510 | 72,570 | 76,630 | 80,690 | 84,750 | 88,810 | 92,870 | 96,930 |
| 80 | 72,570 | 76,630 | 80,690 | 84,750 | 88,810 | 92,870 | 96,930 | 100,990 |
| 85 | 76,630 | 80,690 | 84,750 | 88,810 | 92,870 | 96,930 | 100,990 | 105,050 |
| 90 | 80,690 | 84,750 | 88,810 | 92,870 | 96,930 | 100,990 | 105,050 | 109,110 |

MONTHLY GROSS FAMILY INCOME (\$) NUMBER OF DEPENDENTS

| FEE PER VISIT (\$) | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|--------------------|-------|-------|-------|-------|-------|-------|-------|-------|
| 5 | 973 | 1,311 | 1,649 | 1,988 | 2,326 | 2,664 | 3,003 | 3,341 |
| 10 | 1,311 | 1,649 | 1,988 | 2,326 | 2,664 | 3,003 | 3,341 | 3,679 |
| 15 | 1,649 | 1,988 | 2,326 | 2,664 | 3,003 | 3,341 | 3,679 | 4,018 |
| 20 | 1,988 | 2,326 | 2,664 | 3,003 | 3,341 | 3,679 | 4,018 | 4,356 |
| 25 | 2,326 | 2,664 | 3,003 | 3,341 | 3,679 | 4,018 | 4,356 | 4,694 |
| 30 | 2,664 | 3,003 | 3,341 | 3,679 | 4,018 | 4,356 | 4,694 | 5,033 |
| 35 | 3,003 | 3,341 | 3,679 | 4,018 | 4,356 | 4,694 | 5,033 | 5,371 |
| 40 | 3,341 | 3,679 | 4,018 | 4,356 | 4,694 | 5,033 | 5,371 | 5,709 |
| 45 | 3,679 | 4,018 | 4,356 | 4,694 | 5,033 | 5,371 | 5,709 | 6,048 |
| 50 | 4,018 | 4,356 | 4,694 | 5,033 | 5,371 | 5,709 | 6,048 | 6,386 |
| 55 | 4,356 | 4,694 | 5,033 | 5,371 | 5,709 | 6,048 | 6,386 | 6,724 |
| 60 | 4,694 | 5,033 | 5,371 | 5,709 | 6,048 | 6,386 | 6,724 | 7,063 |
| 65 | 5,033 | 5,371 | 5,709 | 6,048 | 6,386 | 6,724 | 7,063 | 7,401 |
| 70 | 5,371 | 5,709 | 6,048 | 6,386 | 6,724 | 7,063 | 7,401 | 7,739 |
| 75 | 5,709 | 6,048 | 6,386 | 6,724 | 7,063 | 7,401 | 7,739 | 8,078 |
| 80 | 6,048 | 6,386 | 6,724 | 7,063 | 7,401 | 7,739 | 8,078 | 8,416 |
| 85 | 6,386 | 6,724 | 7,063 | 7,401 | 7,739 | 8,078 | 8,416 | 8,754 |
| 90 | 6,724 | 7,063 | 7,401 | 7,739 | 8,078 | 8,416 | 8,754 | 9,093 |

Exhibit C

Indemnification and Insurance Requirements

INDEMNIFICATION

CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, and/or liability arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. CONTRACTOR's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct.

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. This Indemnification provision shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment

Exhibit C
Indemnification and Insurance Requirements

furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).

2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby grants to COUNTY a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the COUNTY by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require the CONTRACTOR to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention
6. **Acceptability of Insurers** – 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".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time
8. **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 terminate the Agreement.

Exhibit C
Indemnification and Insurance Requirements

9. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR 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.