

**CONTRACT FOR COURIER SERVICES
COUNTY OF SAN LUIS OBISPO CITY/COUNTY LIBRARY**

THIS CONTRACT, entered into by and between the County of San Luis Obispo, a public entity in the State of California, (hereafter "County") and J & B Management Inc., a California Corporation, doing business as Courier Systems, , hereafter referred to as "Contractor."

WHEREAS, County has a need for special services, as more particularly described on Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, Contractor is specially trained, experienced, expert, and competent to perform such special services.

WHEREAS, the San Luis Obispo County Library (the Library) has special and unique needs which can be more effectively addressed by this contract;

NOW, THEREFORE, in consideration of the covenants, conditions, agreements, and stipulations set forth herein, the parties agree as follows:

1. Scope of Services. County hereby engages Contractor to perform, and Contractor hereby agrees to perform for County, the services set forth on Exhibit A, attached hereto, and incorporated herein by reference, all pursuant to the terms and conditions hereinafter set forth.
2. Compensation. County shall compensate contractor for performing said services in accordance with Exhibit B; attached hereto and incorporated herein by reference.
3. Effective Date and Duration. The effective date and duration of this Contract shall be as specified on Exhibit C, attached hereto and incorporated herein by reference.
4. General Conditions. Contractor and County shall comply with all provisions of County's General Conditions, a copy of which is attached hereto as Exhibit D and incorporated herein by reference.
5. Special Conditions. Contractor and County shall comply with all provisions of County's Special Conditions, a copy of which is attached hereto as Exhibit E and incorporated herein by reference.

IN WITNESS WHEREOF, County and Contractor have executed this Contract on the day and year set forth below.

CONTRACTOR

J & B Management Inc., a California Corporation, doing business as Courier Systems

By: _____



Date: _____

1/22/2015

Printed Name: JERRY LEONARD Date: 1/22/2015

And By: _____ Date: _____

Printed Name: _____ Date: _____

Tax ID # Held in Confidential File

COUNTY COUNSEL

Approved as to form and legal effect.

Rita L. Neal
County Counsel

By: [Signature] Dated: 1/21/15
Deputy County Counsel

COUNTY OF SAN LUIS OBISPO,
A public entity in the State of California

By: _____ Dated: _____
Chair, Board of Supervisors

ATTEST

Tommy Gong, County Clerk and Ex-Officio Clerk of the Board of Supervisors

By: _____ Dated: _____
Deputy County Clerk-Recorder

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**EXHIBIT A – INDEPENDENT CONTRACTOR
SCOPE OF SERVICES**

1. Scope of Services.

The Library requires a courier delivery service to pickup and delivery library materials to its member libraries, (see Attachment A – Courier Schedule). Library materials are handled in open-top bags carrying approximately 25 to 30 items. The Library estimates 700 bags per week. The destination for each bag is coded with a bookmark placed in or on the bag. At each stop bags are dropped off and picked up for delivery along the route. The Library will provide the bags used for transportation.

- A. Contractor will provide County with a single contact name and phone number to ensure clear and timely communication to address issues related to services and contract requirements.
- B. Contractor will meet with County staff as needed to review compliance with the terms of this agreement.
- C. Contractor will ensure that courier staffs are professional when dealing with the Library staff.
- D. Contractor will provide an invoice on a monthly basis.
- E. Contractor will provide all vehicles for transportation.

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**Attachment A – Courier Schedule
Courier Systems**

The delivery route is as follows, arriving at the San Luis Obispo Library at 7:45 AM to load bags.

Leave SLO

	<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>
8:00 AM	Nipomo AG	Nipomo AG	Nipomo AG	Nipomo AG	Nipomo AG

Back to
SLO

10:00 AM	Atas Santa Margarita	Atas	Atas	Atas	Atas
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Back to
SLO

1:00 PM	Los Osos Morro Bay Cambria				
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Note: AG is Arroyo Grande
Atas is Atascadero
SLO is San Luis Obispo

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**EXHIBIT B – INDEPENDENT CONTRACTOR
COMPENSATION AND BILLING FOR SERVICES**

1. Monthly Compensation.

Prior to commencement of services, Contractor shall provide a valid taxpayer ID number to the County of San Luis Obispo. Compensation will be made to the Contractor in the amount of \$4,950.00 dollars per month, further referred to as the “base rate.” The base rate excludes any compensation for a fuel surcharge which additional compensation will be made to the Contractor. The monthly fuel surcharge is as follow:

Average Fuel Cost	Surcharge Applied
3.40-3.499	1%
3.50-3.599	1.5%
3.60-3.699	2%
3.70-3.799	3%
3.80-3.899	3.5%
3.90-3.999	4%
4.00-4.099	5%
4.10-4.199	5.5%
4.20-4.299	6%
4.30-4.399	7%
4.40-4.499	7.5%
4.50-4.599	8%
4.60-4.699	9%

Surcharges will be applied in any month where the average cost of unleaded fuel in San Luis Obispo County exceeds \$3.40. The monthly average fuel cost will based on the Automobile Association of America’s monthly fuel report, available at <http://news.aaa-calif.com/news>

2. Modifications.

Contractor agrees to adhere to Attachment A. If modifications are required, Contractor will increase/decrease billing accordingly. Route schedule changes are at the County’s discretion and will be provided to the contractor in writing (via e-mail) one week in advance.

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3. Billing.

Contractor shall submit an itemized invoice no later than the thirtieth (30th) day of each month for all services performed during the previous calendar month. In the event of the termination of this contract, the last invoice shall be submitted no later than the month following the date of termination.

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**EXHIBIT C – INDEPENDENT CONTRACTOR
TERM OF CONTRACT**

1. Effective Date.

The effective date of this contract is February 1, 2015. The County of San Luis Obispo shall be the last to sign this contract and any amendments thereto. All obligations, imposed on both parties, as listed in Exhibits A and E and elsewhere in contract, shall be binding, commencing on the effective date.

2. Term.

Unless terminated earlier, pursuant to the provisions of this contract, the term of this contract shall be from its effective date for three (3) years.

3. Renewal.

Except as otherwise provided below, this contract may be renewed for an additional two year term immediately following the initial term, subject to the same Contract provisions.

4. Delegation of Authority to Renew.

The Board of Supervisors expressly delegates to the Library Director the authority to renew this contract on the same terms and conditions stated herein.

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**EXHIBIT D – INDEPENDENT CONTRACTOR
GENERAL CONDITIONS**

1. Independent Contractor.

Contractor shall be deemed to be an independent contractor of County. Nothing in this contract shall be construed as creating an employer-employee relationship, partnership or a joint venture relationship. Nothing in this contract authorizes or permits the County to exercise direction or control over the professional manner in which Contractor provides services. Contractor's services shall be provided in a manner consistent with all applicable standards and regulations governing such services.

2. No Eligibility for Fringe Benefits.

Contractor understands and agrees that Contractor and its personnel are not, and will not be, eligible for membership in or any benefits from any County group plan for hospital, surgical, or medical insurance, or for membership in any County retirement program, or for paid vacation, paid sick leave, or other leave, with or without pay, or for any other benefit which accrues to a County employee.

3. Warranty of Contractor for Provision of Services.

The Contractor warrants that Contractor has obtained and shall keep in full force and effect during the term of this Contract all permits, registrations and licenses necessary to accomplish the work specified in the Contract. Contractor warrants that it, and each of the personnel employed or otherwise retained by Contractor, will at all times, to the extent required by law, be properly certified and licensed under the local, Federal, State, and Local laws and regulations applicable to the provision of services herein.

4. Warranty of Contractor – Compliance with all Laws.

The Contractor warrants that Contractor shall keep informed of, observe, and comply with, and cause all of its agents and personnel to observe and comply with all Federal, State, and local laws and rules and regulations made pursuant to such laws, which in any way affect the conduct of work under this contract. If any conflict arises between provisions of the scope of work or specifications in this contract and any law, then the Contractor shall immediately notify the County in writing.

5. Power and Authority of Contractor.

If the Contractor is a corporation, contractor represents and warrants that it is and will remain, throughout the term of this contract, either a duly organized, validly existing California corporation in good standing under the laws of the State of California or a duly organized, validly existing foreign corporation in good standing in the state of incorporation and authorized to transact business in the State of California.

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6. Non-Assignment of Contract.

Inasmuch as this contract is intended to secure the specialized services of the Contractor, Contractor shall not delegate, assign, or otherwise transfer in whole or in part its rights or obligations under this contract without the prior written consent of County. Any such assignment, transfer, or delegation without the County's prior written consent shall be null and void.

7. Entire Agreement and Modifications.

This contract supersedes all previous contracts between the parties hereto on the same subject matter and constitutes the entire understanding of the parties hereto on the subject matter of this contract. Contractor shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. Contractor specifically acknowledges that in entering into and executing this contract, Contractor relies solely upon the provisions contained in this contract and no others.

8. Governing Law.

This contract shall be governed by, and construed in accordance with, the laws of the State of California, without regard to its conflict of laws provisions.

9. Waiver.

No delay or failure on the part of any party hereto in exercising any right, power or privilege under this contract shall impair any such right power or privilege, or be construed as a waiver of any default or any acquiescence therein. No single or partial exercise of any such right, power or privilege shall preclude the further exercise of such right power or privilege or the exercise of any other right, power or privilege. No waiver shall be valid unless made in writing and signed by the party against whom enforcement of such waiver is sought, and then, only to the extent expressly specified therein.

10. Severability.

The Contractor agrees that if any provision of this contract is found to be invalid, illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the contract shall remain in full force and effect. Upon determination that any term or provision is invalid, illegal or unenforceable, the parties shall negotiate in good faith to modify this contract so as to effectuate the original intent of the parties as closely as possible.

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11. Nondiscrimination.

Contractor agrees that it will abide by all federal and state labor and employment laws and regulations pertaining to unlawful discrimination prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sexual orientation, disability or national origin, and those conditions contained in Presidential Executive Order number 11246.

12. Notices.

All notices given or made pursuant hereto shall be in writing and shall be deemed to have been duly given if delivered personally, mailed by registered or certified mail (postage paid, return receipt requested) or sent by a nationally recognized overnight courier (providing proof of delivery) to the parties at the following addresses, or sent by electronic transmission to the following facsimile numbers (or at such other address or facsimile number for a party as shall be specified by like notice):

Christopher Barnickel, Library Director
County of San Luis Obispo Library
995 Palm Street
San Luis Obispo, CA 93401
Fax: (805) 781-1320

And to Contractor at:

Courier Systems.
845 Capitolio Way
San Luis Obispo, CA 93401
Fax: (805) 543-2064

Any such notice shall be deemed to have been received if: (a) in the case of personal delivery or facsimile transmission with confirmation retained, on the date of such delivery; (b) in the case of nationally recognized overnight courier, on the next business day after the date sent; (3) in the case of mailing, on the third business day following posting.

13. Inspection Rights.

The Contractor shall allow the County to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this Contract and to inspect, evaluate and audit any and all books, records and facilities maintained by Contractor and subcontractors, pertaining to such service at any time during normal business hours. Books and records include, without limitation, all physical records originated or prepared pursuant to the performance under this Contract including work papers, reports, financial records and

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books of account. Upon request, at any time during the period of this Contract, and for a period of five years, thereafter, the Contractor shall furnish any such record, or copy thereof, to County.

14. Headings.

The headings contained in this contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this contract.

15. Signatory Authority.

Contractor warrants that it has full power and authority to enter into and perform this contract, and the person signing this contract warrants that he or she has been properly authorized and empowered to enter into this contract.

16. Indemnification.

Contractor shall defend, indemnify and hold harmless the County, its officers and employees from all claims, demands, damages, costs, expenses, judgments, attorney fees, or other losses that may be asserted by any person or entity, including Contractor, and that arise out of or are made in connection with the acts or omissions relating to the performance of any duty, obligation, or work hereunder. The obligation to indemnify shall be effective and shall extend to all such claims or losses in their entirety. However, this indemnity will not extend to any claims or losses arising out of the sole negligence or willful misconduct of the County, its officers and employees.

17. Insurance.

Contractor, at its sole cost, shall purchase and maintain \$1,000,000 in General Liability Insurance.

A. Documentation.

Prior to commencement of work and annually thereafter for the term of this contract, Contractor will provide to the County of San Luis Obispo properly executed certificates of insurance clearly evidencing the coverage, limits, and endorsements specified in this contract.

B. Absence of Insurance Coverage.

County may direct Contractor to immediately cease all activities with respect to this contract if it determines that Contractor fails to carry, in full force and effect, all insurance policies with coverage levels at or above the limits specified in this contract. Any delays or expense due to stopping of work and change of insurance shall be considered Contractor's delay and expense

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18. Nonappropriation of Funds.

In the event that the term of this contract extends into fiscal years subsequent to that in which it was approved, continuation of the contract is contingent on the appropriation of funds by the San Luis Obispo County Board of Supervisors or, if applicable, the provision of State or Federal funding source. If County notifies Contractor in writing that the funds for this contract have not been appropriated or provided, this contract will terminate. In such an event, the County shall have no further liability to pay any funds to the Contractor or to furnish any other consideration under this contract, and the Contractor shall not be obligated to perform any provision of this contract or to provide services intended to be funded pursuant to this contract. If partial funds are appropriated or provided, the County shall have the option to either cancel this contract with no liability to the County or offer a contract amendment to the Contractor to reflect the reduced amount.

19. Force Majeure.

Neither the County nor the Contractor shall be deemed in default in the performance of the terms of this contract if either party is prevented from performing the terms of this contract by causes beyond its control, including without limitation: acts of God; rulings or decisions by municipal, federal, state or other governmental bodies; any laws or regulations of such municipal, federal, state or other governmental bodies; or any catastrophe resulting from flood fire, explosion, or other causes beyond the control of the defaulting party. Any party delayed by force majeure shall, as soon as reasonably possible, give the other party written notice of the delay. The party delayed shall use reasonable diligence to correct the cause of the delay, if correctable, and if the condition that caused the delay is corrected, the party delayed shall immediately give the other parties written notice thereof and shall resume performance under this contract.

20. Fiscal Records.

Contractor shall maintain accurate fiscal records pertaining to services performed under this Contract. Such fiscal records shall be open for inspection to County Auditors at any reasonable time and will reflect cost accounting that conforms to generally accepted accounting procedures. Contractor shall maintain such records and accounts for a minimum of five years, or in the case of an audit, until audit findings are resolved, whichever is later.

21. Fiscal Controls.

Contractor shall adhere to the accounting requirements, financial reporting, and internal control standards as described in the Auditor-Controller Contract Accounting and Administration Handbook, (Handbook) which contains the minimum required procedures

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and controls that must be employed by Contractor's accounting and financial reporting system, and which is incorporated herein by reference. Contractor shall require subcontractors to adhere to the Handbook for any services funded through this contract, unless otherwise agreed upon in writing by County.

- i. The Handbook is available at <http://www.slocounty.ca.gov/AC/>, under Policies and Procedures or at the Auditor-Controller's Office, 1055 Monterey Street Room D220, County Government Center, San Luis Obispo CA, 93408,
- ii. The Office of Management and Budget (OMB) circulars are available at <http://www.whitehouse.gov/omb/circulars>.

22. State Audit.

Pursuant to California Government Code section 8546.7, every County contract involving the expenditure of funds in excess of ten thousand dollars (\$10,000) is subject to examination and audit of the State auditor for a period of three years after final payment under the contract. Contractor shall permit the State Auditor to have access to any pertinent books, documents, papers and records for the purpose of said audit.

23. Nondisclosure.

All reports, information, documents, or any other materials prepared by Contractor under this contract are the property of the County unless otherwise provided herein. Contractor shall not disclose such reports, information, documents and other materials without County's prior written consent. Any requests for information shall be forwarded to County along with all copies of the information requested. County shall make the sole decision about whether and how to release information according to law.

24. Conflict of Interest.

Contractor acknowledges that Contractor is aware of and understands the provisions of sections 1090, et.seq., and 87100, et. seq., of the Government Code, which relate to conflicts of interest of public officers and employees. Contractor certifies that Contractor is unaware of any financial or economic interest of any public officer or employee of the County relating to this contract. Contractor agrees to comply with applicable requirements of Government Code section 87100, et. seq., during the term of this contract.

25. Immigration Reform and Control Act.

Contractor acknowledges that Contractor, and all subcontractors hired by Contractor to perform services under this contract are aware of and understand the Immigration Reform and Control Act ("IRCA") of 1986, Public Law 99-603. Contractor certifies that Contractor is and shall remain in compliance with ICRA and shall ensure that any subcontractors hired by Contractor to perform services under this contract are in compliance with IRCA.

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26. Third Party Beneficiaries.

It is expressly understood that the enforcement of the terms and conditions and all rights of action related to enforcement, shall be strictly reserved to County and Contractor.

Nothing contained in this contract shall give or allow any claim or right of action whatsoever by any other third person.

27. Tax Information Reporting.

Upon request, Contractor shall submit its tax identification number or social security number; whichever is applicable, in the form of a signed W-9 form, to facilitate appropriate fiscal management and reporting.

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**EXHIBIT E – INDEPENDENT CONTRACTOR
SPECIAL CONDITIONS**

1. Termination for Convenience.

Either party may terminate this Contract at any time by giving the other party at least thirty (30) calendar day's written notice of termination for convenience ("Notice of Termination for Convenience"). Termination for convenience shall be effective at 11:59 p.m., Pacific Standard Time, on the intended date for termination (the "Termination Date"). The terminating party shall deliver to the other party a notice specifying the date upon which such termination will become effective, which shall be at least thirty (30) calendar days after the date of the notice.

Termination for convenience shall have no effect upon the rights and obligations of the parties arising out of any services that were provided prior to the effective date of such termination. Contractor shall be paid for all work satisfactorily completed prior to the effective date of termination. After receiving a Notice of Termination for Convenience, Contractor shall, unless directed by County, place no further subcontracts for services or materials, terminate all subcontracts to the extent they relate to the work terminated, and settle all outstanding liabilities arising from the termination of subcontracts.

2. Termination for Cause.

- a. If the County determines that there has been a material breach of this contract by Contractor that poses a threat to health and safety, the County may immediately terminate the contract. In addition, if any of the following occur, County shall have the right to terminate this contract effective immediately upon giving written notice to the Contractor:
 - (1) Contractor fails to perform his duties to the satisfaction of the County; or
 - (2) Contractor fails to fulfill in a timely and professional manner his obligations under this contract; or
 - (3) Contractor fails to exercise good behavior either during or outside of working hours that is of such a nature as to bring discredit upon the County; or
 - (4) Any requisite licenses or certifications held by Contractor are terminated, suspended, reduced, or restricted; or
- b. Contractor's obligations to provide services shall automatically terminate on the effective date of termination.
- c. For all other material breaches of this contract, County must give Contractor written notice setting forth the nature of the breach. If Contractor fails to remedy said breach within ten (10) days from the date of the written notice, County may terminate the contract. Contractor shall thereafter have no further rights, powers, or privileges against County under or arising out of this contract.

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In the event a breach does not result in termination, but does result in costs being incurred by County, said costs shall be charged to and paid by Contractor. Such costs may include, but are not limited to, costs incurred by County in investigating and

3. Nondiscrimination.

- a. Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended pertaining to the prohibition of discrimination against qualified handicapped persons in all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Human services, effective June 2, 1977, and found in the Federal Register, Volume 42, No.86 dated May 4, 1977.
- b. Contractor shall comply with the provisions of the Americans with disabilities Act of 1990, the Fair Employment and Housing Act (Government Code section 12900 et seq.) and the applicable regulation promulgated there under (Title 2 Section 7285 et seq.) The Contractor shall give written notice of its obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- c. Contractor shall not engage in any unlawful discriminatory practices in the admission of beneficiaries, assignments of accommodations, treatment, evaluation, employment of personnel, or in any other respect on the basis of race, color, gender, religion, marital status, national origin, age, sexual preference or mental or physical handicap.

4. Equipment.

Contractor shall furnish all personnel and equipment for the performance of services pursuant to this contract, including supplies, equipment, telephone, furniture, utilities, and quarters necessary for the performance of services.

5. Other Employment.

Contractor shall retain the right to provide services at another facility or to operate a separate private practice; subject, however, to the conditions that:

- a. No such private practice shall be conducted or solicited on County premises.
- b. Such other employment shall not conflict with the duties, or the time periods within which to perform those duties, described in this contract.
- c. The insurance coverage provided by the County or by the Contractor for the benefit of the County herein is in no way applicable to or diminished by any other employment or services not expressly set forth in this contract.

6. Gifts.

Gifts may not be charged to this Contract, whether to Contractor staff or anyone else.

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7. Power to Terminate.

The Library Director may effectuate termination of this contract without the need for action, approval, or ratification by the Board of Supervisors.

8. Amendments without Board Action.

The Board of Supervisors delegates to the Library Director the authority to amend the contract to provide for additional services and increase compensation to Contractor in an amount not to exceed the lesser of the following amounts: ten percent (10%) of the contract total or twenty-five thousand dollars (\$25,000.00).

The Board of Supervisors delegates the authority to the Library Director to amend this contract to exchange types of services at the rates listed for each respective service.

Any amendment made pursuant to a delegation of authority will only be effective if, prior to the commencement of services, the amendment is memorialized in writing, is approved by County Counsel, and is signed by the Library Director. Except as expressly provided herein, no contractual provision may be modified under this delegation of authority.

9. Inspection of Records by Local, State or Federal Agency.

The Contractor shall allow the County, and other authorized federal and state agencies, or their duly authorized representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this contract and to inspect, evaluate and audit any and all books, records, and facilities maintained by Contractor, pertaining to such service at any time during normal business hours.

Books and records include, without limitation, all physical records originated or prepared pursuant to the performance under this contract including work papers, reports, financial records, books of account.

10. Disentanglement.

Contractor warrants that in the event of any expiration or termination of this contract, Contractor will take all actions necessary to accomplish a complete and timely transition to the County, or to any replacement provider, of the Services being terminated (a "Disentanglement") without any material impact on the Services. Contractor shall cooperate with County and otherwise take all steps reasonably required to assist County in effecting a complete and timely Disentanglement. Contractor shall provide County with all information regarding the Services or is otherwise needed for Disentanglement.