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SAN BERNARDINO COUNTY

Contract Number 21-446

SAP Number

PURCHASING

Department Contract Representative	Cody Leslie
Telephone Number	(909) 387-7854
Contractor	TRIOSE
Contractor Representative	Tom Vollert
Telephone Number	(866) 241-2268
Contract Term	March 1, 2021- March 1, 2023
Original Contract Amount	
Amendment Amount	
Total Contract Amount	
Cost Center	

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, the County of San Bernardino (County) desires to obtain freight management services and

WHEREAS, the County conducted a competitive process to find Triose ("Contractor") to provide these services, and

WHEREAS, the County finds Contractor qualified to provide a logistics freight management program that reduces costs, manages freight movement and provides an on-going quality control program process, and

WHEREAS, the County desires that such services be provided by Contractor and Contractor agrees to perform these services as set forth below;

NOW, THEREFORE, the County and Contractor mutually agree to the following terms and conditions:

A. DEFINITIONS

A.1 Board: The San Bernardino County Board of Supervisors.

A.2 Carrier: Generally an Independent Subcontractor or Owner/Operator who has a personal monetary stake in the assets required to carry out business operations, promote their own business growth and are responsible for their own withholding tax and Social Security payments.

A.3 Contract: The agreement between the County and Triose for the specified service.

A.4 Contractor: Triose.

A.5 DPUT: Direct Pay Use Tax.

A.6 Goods: Cargo that is transported pursuant to this Contract.

A.7 Participant: A governmental body that utilizes the Services of Contractor under this Contract pursuant to Section C.29 below.

A.8 Pro Number: A series of numbers used by carriers as a reference for freight movement. The term "PRO number" is short for progressive number. Can also be called a tracking or tracing number.

A.9 Proposal: The offer to provide specific goods or services at specified prices and/or other conditions specified in the RFP.

A.10 Purchasing Agent: The Director of the County Purchasing Department.

A.11 Request for Proposal (RFP): Document issued by the County when it seeks equipment or services which describes what is sought and certain terms and conditions for providing the service.

A.12 Services: Work performed by an outside vendor in accordance with specific needs of the County.

A.13 Subcontractor: An individual, company, firm, corporation, partnership or other organization, not in the employment of or owned by Contractor who is performing a defined segment of overall service on behalf of Contractor under the Contract or under a separate contract with or on behalf of Contractor.

A.14 LTL: Less than truckload shipping or less than load (LTL) is the transportation of relatively small freight.

A.15 NMFC: In the United States, each commodity or type of product is assigned a National Motor Freight Classification (NMFC) and corresponding class for less than truckload (LTL) freight shipments. The (NMFC) system is a standardized method designed to give consumers a uniform pricing structure when transporting freight.

B. CONTRACTOR RESPONSIBILITIES

B.1 Transportation Services – Contractor shall provide competitive prices, with multiple recognized and reputable Subcontractors and/or Carriers, for comprehensive transportation service needs including:

B.1.1 Less than Truckload (LTL), Linear Foot/Volume Loads;

B.1.2 Van, Truck Loads and Flatbed (including extended, wide and long, flatbed with boom, low-boys and step-deck);

B.1.3 Specialty requirements, such as Refrigerated, High Security, Pneumatic, Tanker, and Hazardous materials (Hazmat);

B.1.4 Expedited and Guaranteed Service Air; and,

B.1.5 International – Air and Ocean.

B.2 On-Line Services (Technical Components)

B.2.1 Contractor shall provide on-line Rate Quotes, with the following capabilities:

a. Web based Log-in Site;

b. Multiple Log-in and Password capabilities enabling each County department access to the quoting system for their department only. Provide a limited number of users access to all County information as approved by the Purchasing Department.

c. Rate quotes generated by origin, destination zip codes, weights, class, piece count and pallet count;

d. Ability to generate pricing for additional services including call before deliveries, inside deliveries, lift gate deliveries/pickups, etc.

e. Display of quotes based on least cost routing, showing carrier's pricing and transit times.

B.2.2 The Rate Quote details shall display all pertinent information, including but not limited to:

a. Origin/destination of freight

b. County department information

c. Item count

d. Weight

e. Class

f. Net charge

g. Fuel surcharge

h. Additional service fees

i. Total charges

B.2.3 The Rate Quote System shall accept purchase order numbers, associated with the quote number for future reference.

B.2.4 The Bill of Lading shall include editing capabilities and special instruction capabilities.

B.2.5 Contractor shall generate shipping labels, and provide shipment tracing with a web-based log-in site, multiple log-in and password capabilities enabling departments' access to the tracing system.

B.2.6 Contractor shall provide capabilities to trace the following fields:

a. Shipment Date Range

b. Requesting County department

c. Carrier

d. Pro Number

e. Shipper

f. Shipper City

g. Shipper State

h. Consignee

i. Consignee City

j. Consignee State

k. Order Number

B.2.7 Contractor shall provide tracing display including, but not limited to:

a. PO Number/ Pro Number

b. Delivery Status

c. Status Date

d. Freight Received By

B.2.8 Contractor shall provide Tracing Reports that are exportable to Excel spreadsheets. The Tracing Reports shall show:

a. Ship Date,

b. Carrier,

c. Pro Number

d. Shipper (City/State/Zip),

e. Customer Savings – Contractor shall *provide quarterly reports demonstrating customer cost savings per County department*

B.2.9 Contractor's on-line system shall have the ability to accept purchase orders, Credit Card payments with the following capabilities:

a. Web based Log-in Site

b. Multiple Log-in and Password capabilities enabling individual departments access to the Credit Card payment System through a secure payment gateway

c. Invoice review through PO number or Invoice numbers

d. Credit Card payments through a secure payment gateway

e. Generation of payment receipt

B.3 Primary Operational Support
Contractor shall:

B.3.1 Provide a dedicated service support representative team as a primary point of contact for the County;

B.3.2 Contact Subcontractor or Carriers to coordinate shipping specifics;

a. Whenever an order is stipulated to be a DPUT order it must be delivered to:

14622 EL MOLINO ST., FONTANA, CA 92335

b. All deliveries must be scheduled by calling the location above at (909) 356-2551 during regular business hours (Monday – Friday 8 am – 4 pm PST)

B.3.3 Input information into on-line system;

B.3.4 Produce necessary paperwork, including Bill of Lading for all shipments;

B.3.5 Verify delivery pick-up with Subcontractor or Carrier;

B.3.6 Trace daily (notify Shipper of any delays, shortages, damage, etc.);

B.3.7 Verify delivery to consignee;

B.3.8 Audit freight bills to ensure accuracy;

B.3.9 Generate weekly tracing reports customized for the County;

B.3.10 Conduct comparative pricing studies;

B.3.11 Annual evaluation of Subcontractor or Carriers' pricing and renegotiation of freight rates for the benefit of the County;

B.3.12 Crisis management and problem resolution;

B.3.13 Consultation on Release value, insurance, National Motor Freight classification (NMFC), Hazmat; and provide Contingency Cargo insurance on appropriate shipments.

B.4 Quality and Process Control Service
Contractor shall:

B.4.1 Implement process and procedure improvement plans to address all issues;

B.4.2 provide claims reduction assistance

B.4.3 provide filing assistance with any damage claims

B.5 The County of San Bernardino will access TRIOSE's discounted rate of up to 65% off list pricing on all Large Cargo/Capital shipments over 150lbs. Individual County groups/Departments will utilize this Contract indicating the services desired, pickup locations, and will provide name,

email and telephone number of County Group/Department contact for services, invoicing, and billing address to the Contractor.

B.6 Provide quarterly reports demonstrating customer cost savings per County department.

C. GENERAL CONTRACT REQUIREMENTS

C.1 Recitals

The recitals set forth above are true and correct and incorporated herein by this reference.

C.2 Contract Amendments

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County.

C.3 Contract Assignability

Without the prior written consent of the County, the Contract is not assignable by Contractor either in whole or in part.

C.4 Contract Exclusivity

This is not an exclusive Contract. The County reserves the right to enter into a contract with other contractors for the same or similar services. The County does not guarantee or represent that the Contractor will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Contract.

C.5 Attorney's Fees and Costs

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

C.6 Background Checks for Contractor Personnel

Contractor shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (d) do not use legal or illegal substances in any manner which will impact their ability to provide Services to the County; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the County and not in violation of applicable law, Contractor shall conduct a background check, at Contractor's sole expense, on all its personnel providing Services. If requested by the County, Contractor shall provide the results of the background check of each individual to the County. Such background check shall be in the form generally used by Contractor in its initial hiring of employees or contracting for contractors or, as applicable, during the employment-screening process but must, at a minimum, have been performed within the preceding 12-month period. Contractor personnel who do not meet the County's hiring criteria, in County's sole discretion, shall not be assigned to work on County property or Services, and County shall have the right, at its sole option, to refuse access to any Contract personnel to any County facility.

C.7 Change of Address

Contractor shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

C.8 Choice of Law

This Contract shall be governed by and construed according to the laws of the State of California.

C. 9 Compliance with County Policy

In performing the Services and while at any County facilities, Contractor personnel (including

Subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the County regarding health and safety, and personal, professional and ethical conduct; (c) with respect only to Contractor employees, comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the County; and (d) abide by all laws applicable to the County facilities and the provision of the Services, and all amendments and modifications to each of the documents listed in subsections (b), (c), and (d) (collectively, "County Policies"). County Policies, and additions or modifications thereto, may be communicated orally or in writing to Contractor or Contractor personnel or may be made available to Contractor or Contractor personnel by conspicuous posting at a County facility, electronic posting, or other means generally used by County to disseminate such information to its employees or contractors. Contractor shall be responsible for the promulgation and distribution of County Policies to Contractor personnel to the extent necessary and appropriate.

County shall have the right to require Contractor's employees, agents, representatives and subcontractors to exhibit identification credentials issued by County in order to exercise any right of access under this Contract.

C.10 Confidentiality

Contractor shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving Services pursuant to this Contract, except for statistical information not identifying any participant. Contractor shall not use or disclose any identifying information for any other purpose other than carrying out the Contractor's obligations under this Contract, except as may be otherwise required by law. This provision will remain in force even after the termination of the Contract.

C.11 Primary Point of Contact

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquiries within two (2) business days. Contractor shall not change the primary contact without written acknowledgement to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

C.12 County Representative

The Director of Purchasing, *or* his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and assignment of this Contract, and shall be the final authority in all matters pertaining to the Services/Scope of Work by Contractor. If this contract was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract.

C.13 Damage to County Property

Contractor shall repair, or cause to be repaired, at its own cost, all damages to County vehicles, facilities, buildings or grounds caused by the willful or negligent acts of Contractor or its employees, or agents. Such repairs shall be made immediately after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Contractor fails to make timely repairs, the County may make any necessary repairs. The Contractor, as determined by the County, shall repay all costs incurred by the County for such repairs, by cash payment upon demand, or County may deduct such costs from any amounts due to the Contractor from the County, as determined at the County's sole discretion.

C. 14 Debarment and Suspension

Contractor certifies that neither it nor its principals or employees is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United

States General Services Administration's System for Award Management website https://www.sam.gov). Contractor further certifies that if it or any of its Subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State to the extent required by California law.

C.15 Drug and Alcohol Free Workplace

In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this Contract, the Contractor agrees that the Contractor, the Contractor's employees, and the Subcontractors and Carriers while performing service for the County, on County property, or while using County equipment:

C.15.1 Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.

C.15.2 Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.

C.15.3 Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The Contractor shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

The County may terminate for default or breach of this Contract and any other Contract the Contractor has with the County, if the Contractor or Contractor's employees are determined by the County not to be in compliance with above.

C.16 Duration of Terms

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

C.17 Employment Discrimination

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

C.18 Environmental Requirements

In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Contractor to use recycled paper for any printed or photocopied material created as a result of this Contract. Contractor is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

To assist the county in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Contractor must be able to annually report the County's environmentally preferable purchases. Contractor must also be able to report on environmentally preferable goods and materials used in the provision of their service to the County, utilizing a County approved form.

C.19 Improper Influence

Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Contractor or officer or employee of the Contractor.

C.20 Improper Consideration

Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate this Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

C.21 Informal Dispute Resolution

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

C.22 Legality and Severability

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

C.23 Licenses, Permits and/or Certifications

Contractor shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. Contractor will notify County immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Contract.

C.24 Material Misstatement/Misrepresentation

If during the course of the administration of this Contract, the County determines that Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

C.25 Mutual Covenants

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

C.26 Nondisclosure

Contractor shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with this Contract; or, (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of this Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialize and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

C.27 Notice of Delays

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

C.28 Ownership of Documents

All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the Contract shall be considered property of the County upon payment for services (and products, if applicable). All such items shall be delivered to County at the completion of work under the Contract, subject to the requirements of Section IV–Term of the Contract. Unless otherwise directed by County, Contractor may retain copies of such items.

C.29 Participation Clause

The County desires that Municipalities, School Districts, and other Tax Districts within the State of California requiring the same services provided herein may at their option and through the County Purchasing agent, avail themselves of this Contract. Upon notice, in writing, the Contractor agrees to the extension of the terms of a resultant contract with such governmental bodies as though they have been expressly identified in this bid, with the provisions that:

C.29.1 Such governmental body does not have and will not have in force any other contract for like purchases.

C.29.2 Such governmental body does not have under consideration for award any other bids or quotations for like purchases.

Such governmental body shall make purchases directly through and to the Contractor. The County will not be liable for any such purchase made between the Contractor and another governmental body who avails themselves of this contract.

C.30 Air, Water Pollution Control, Safety and Health

Contractor shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Contract.

C.31 Records

Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for contract performance. All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of the Contract.

All Contractor records relating to the Contractor's personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Contract shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars, which state the administrative requirements, cost principles and other standards for accountancy.

C.32 Relationship of the Parties

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

C.33 Release of Information

No news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor's relationship with County may be made or used without prior written approval of the County.

C.34 Representation of the County

In the performance of this Contract, Contractor, its Subcontractors or Carriers, agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino.

C.35 Strict Performance

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

C.36 Subcontracting

At County's request, Contractor shall provide information regarding the Subcontractor's or Carrier's qualifications.

For any Subcontractor and Carrier, Contractor shall:

36.1 Be responsible for Subcontractor or Carrier compliance with the Contract and the subcontract terms and conditions

Upon expiration or termination of this Contract for any reason, County will have the right to enter into direct Contracts with any of the Subcontractors. Contractor agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct Contracts with County.

C. 37 Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible

following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Contractor for County.

C.38 Termination for Convenience by the County

The County and the Contractor each reserves the right to terminate the Contract, for any reason, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to the Contractor for services rendered, including shipments booked, but not yet delivered, and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Contractor shall promptly discontinue requests for services unless the notice directs otherwise. Shipments already in transit at the time of the notice will be allowed to proceed to their final destination.

C.39 Time of the Essence

Time is of the essence in performance of this Contract and of each of its provisions.

C.40 Venue

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, San Bernardino District.

C.41 Conflict of Interest

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Contractor shall make a reasonable effort to prevent employees, Contractor, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

C.42 Former County Administrative Officials

Contractor agrees to provide, or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

C.43 Disclosure of Criminal and Civil Procedures

The County reserves the right to request the information described herein from the Contractor. Failure to provide the information may result in a termination of the Contract. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The Contractor also may be requested to provide information to clarify initial responses. Negative information discovered may result in Contract termination.

Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Contractor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Contractor will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

D. TERM OF CONTRACT

This Contract is effective as of March 1, 2021 through March 1, 2023 but may be terminated earlier in accordance with provisions of this Contract.

E. COUNTY RESPONSIBILITIES

E.1 The County agrees that its officials and employees will cooperate with and assist representatives of the Contractor in every reasonable way to enable Contractor to secure information required to perform the services herein provided for.

E.2 The County will compensate Contractor for services fees in accordance with Section F. Fiscal Provisions.

E.3 The County will provide TRIOSE with advance notice of the proposed shipment of any hazardous material, as that term is used in the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, *et seq.*, as amended ("Hazardous Material"), together with a copy of the Material Safety Data Sheet for that Hazardous Material. TRIOSE will then update its Subcontractor or Carrier of the load requirements.

E.4 The County must give TRIOSE written notice of any potential claim for loss or damage to any Goods within a commercially reasonable period upon becoming aware of any such loss or damage.

E.5 The County must file claims for recovery for loss or damage to any Goods in writing with Contractor within 60 days after the date the Goods were delivered or (in the case of lost Goods)

scheduled for delivery (the "Delivery Date"). E-mail notice from a County or Participant representative will be deemed acceptable written notice. Each claim must contain information necessary to identify the Goods affected, the basis for liability and the amount of the alleged loss or damage, as well as all appropriate supporting documentation. The County or Participant will cooperate with Contractor, Subcontractor or Carrier and its insurers in their investigation of any claim or potential claim by County or Participant.

F. FISCAL PROVISIONS

F.1 Individual County groups/Departments will utilize this agreement indicating the services desired, and pickup locations. Departments will provide to Contractor the name, email and telephone number of contact for services, invoicing, and billing address to the requesting department.

F.2 The County of San Bernardino will access TRIOSE's discounted rate of 65% off list pricing on all Large Cargo/Capital shipments over 150lbs. Contractor will be reimbursed the final discounted price.

F.3 Contractor shall invoice the County on a monthly basis. Upon receipt of the invoice, the County will reimburse Contractor within 45 days.

F.4 Contractor shall have capability to accept payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.

F.5 County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. County will provide Contractor a certificate to the foregoing effect upon request. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract.

F.6 Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.

F.7 Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.

F.8 Contractor shall adhere to the County's Travel Management Policy (8-02 and 08-02SP1) when travel is pursuant to this Contract and for which reimbursement is sought from the County. In addition, Contractor is encouraged to utilize local transportation services, including but not limited to, the Ontario International Airport.

G. INDEMNIFICATION AND INSURANCE REQUIREMENTS

G.1 Indemnification

The Contractor shall only utilize Carriers and other Subcontractors that agree to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of their respective negligence or willful misconduct.

G1.1. Notice of Hazardous Materials. The County will provide Contractor, with advance written notice of the proposed shipment of any hazardous material, as that term is used in the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, et seq., as amended ("Hazardous Material"), together with a copy of the Material Safety Data Sheet for that Hazardous Material. The County will indemnify, defend and hold harmless TRIOSE and Carrier, their officers, employees, agents and insurers, against all claims, liabilities, losses, fines, legal fees and other expenses arising out of contact with, exposure to or release of any Hazardous Material, including without limitation fines or expenses relating to the removal or treatment of that Hazardous Material or any other remedial action pertaining to that Hazardous Material under federal or state law, if (1) County fails to provide the notice required by this Section prior to tendering the Hazardous Material to Carrier, (2) the contact, exposure or release results from improper omissions of County, or (3) the contact, exposure or release occurs subsequent to the transport of the Hazardous Material by Carrier unless the contact, exposure, or release occurs as a result of the Carrier's negligence.

G.2 Additional Insured

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. This applies to Subcontractors and Carriers as well as the Contractor.

G.3 Waiver of Subrogation Rights

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

G.4 Policies Primary and Non-Contributory

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

G.5 Severability of Interests

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

G.6 Proof of Coverage

The Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request. Certificates of Insurance must also be provided upon request for each Subcontractor or Carrier that provides services to the County.

G.7 Acceptability of Insurance Carrier

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

G.8 Deductibles and Self-Insured Retention

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

G.9 Failure to Procure Coverage

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

G.10 Insurance Review

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

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

Any failure, actual or alleged, on the part of the 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 the County.

G.11 The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain, or ensure the Subcontractor or Carrier maintains throughout the contract term the following types of insurance with limits as shown:

G.11.1 Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with $250,000 limits covering all employees of Contractor including volunteers of Contractor providing services on behalf of the Contractor and all risks to such persons under this contract.

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

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

G.11.2 Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars ($1,000,000), per occurrence. The policy coverage shall include:

a. Premises operations and mobile equipment.
b. Products and completed operations.
c. Broad form property damage (including completed operations).
d. Explosion, collapse and underground hazards.
e. Personal injury.
f. Contractual liability.
g. $2,000,000 general aggregate limit.

G.11.3 Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars ($1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars ($2,000,000) for bodily injury and property damage per occurrence.

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

G.11.4 Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

G.11.5 Cargo Loss/Damage -- Contractor shall be responsible for loss or damage to the Goods if it is shown that the loss or damage occurred while in a Subcontractor or Carrier's exclusive care, custody and control and resulted from the Subcontractor or Carrier's negligent or intentional acts or omissions, so long as Customer complies with Sections E4 and E5 of County's Responsibilities. In no event will Contractor be liable for concealed damage or where the loss or damage is caused by an act of God, the public enemy, an act or omission of County, consignor or consignee, or their respective employees or representatives, or the inherent vice or nature of the Goods. If a Carrier receives a sealed shipping container, Contractor will be liable to Customer for loss or damage to Goods in that container only if the trailer is involved in a collision or upset or if the seal is not intact upon delivery. The Contractor's liability to County or any other claimant hereunder for any loss or damage to the Goods will not exceed the lesser of (1) the direct cost of the Goods involved (including transportation to the point of loss or damage), less any salvage value, or (2) $100,000 per occurrence; provided, however, that the County or other Participant may request a limit higher than set forth in clause (3) with respect to any particular shipment by providing notice to Contractor when a request is made to quote

manage, and/or tender a particular shipment to a Carrier. Contractor shall impose an insurance surcharge with respect to each shipment and the increased limit shall be conditioned, in each case, upon the County confirming its obligation to pay said surcharge.

Contractor shall acquire occurrence-based cargo insurance necessary to cover foregoing liabilities.

H. RIGHT TO MONITOR AND AUDIT

H.1 The County, State and Federal government shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract. Contractor shall give full cooperation, in any auditing or monitoring conducted. Contractor shall cooperate with the County in the implementation, monitoring, and evaluation of this Contract and comply with any and all reporting requirements established by the County.

H.2 All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under this Contract or until all pending County, State and Federal audits are completed, whichever is later.

I. CORRECTION OF PERFORMANCE DEFICIENCIES

I.1 Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.

I.2 In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

a. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of County; and/or
b. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or
c. Withhold funds pending duration of the breach; and/or
d. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Item "b" of this paragraph; and/or
e. Terminate this Contract immediately and be relieved of the payment of any consideration to Contractor. In the event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.

J. NOTICES

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

County of San Bernardino
Purchasing Department
777 E. Rialto Avenue
San Bernardino, CA 92415

Triose
Attn: President
2001 State Hill Road, Suite 205
Wyomissing, PA 19610

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

K. ENTIRE AGREEMENT

This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

IN WITNESS WHEREOF, the County of San Bernardino and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.

COUNTY OF SAN BERNARDINO

▶ _____

Curt Hagman, Chairman, Board of Supervisors

Dated: FEB 09 2021

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Lynna Monell
Clerk of the Board of Supervisors
of the County of San Bernardino

By _____
Deputy

TRIOSE Inc.
(Print or type name of corporation, company, contractor, etc.)

By _____
(Authorized signature - sign in blue ink)

Name Ira Tauber
(Print or type name of person signing contract)

Title PRESIDENT
(Print or Type)

Dated: 9/9/2020

Address 1 MERIDIAN BLVD. SUITE 4B02
Wyomissing, PA 19610

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
▶ Kurt Rubb	▶	▶ Valerie Clay
County Counsel		Valerie Clay
Date 2/1/21	Date	Date 2/1/21

Supv. Deputy