

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

March 1, 2022

FROM

BOB DUTTON, Assessor-Recorder-County Clerk

SUBJECT

Non-Financial Terms of Service Agreement with Dropbox, Inc. for File Management and Transfer Services

RECOMMENDATION(S)

1. Approve a non-financial Terms of Service **Agreement No. 22-126** with Dropbox, Inc., including non-standard terms, to be accepted electronically, for file management and transfer services for a period of March 1, 2022 through February 28, 2027.
 2. Authorize the Assessor-Recorder-County Clerk or Departmental Information Systems Administrator to electronically accept the Terms of Service Agreement related to Dropbox file management and transfer services, subject to review by County Counsel.
- (Presenter: Bob Dutton, Assessor-Recorder County Clerk, 382-3254)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Improve County Government Operations.

Operate in a Fiscally-Responsible and Business-Like Manner.

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary General Funding (Net County Cost). The Terms of Service Agreement (Agreement) is non-financial in nature and does not commit the County to make any purchases. When future purchases are made under this Agreement, County purchasing policies will be adhered to and the Assessor-Recorder-County Clerk Department (ARC) will return to the Board of Supervisors (Board) for approval, if necessary.

BACKGROUND INFORMATION

The ARC utilizes Dropbox, Inc. (Dropbox) file management and transfer services for a number of daily operations, which include, but are not limited to receiving plans and permits from cities and towns that are too large to email, transferring large files to programmers in relation to the Assessor Information Management System (AIMS) project, accepting large legal documents including color deeds from tax payers, and facilitating large file transfers for various work units. Approval of Dropbox's Agreement, including non-standard terms, would authorize future purchases of the Dropbox file management and transfer services, subject to County purchasing policies, and approval of Recommendation No. 2 would authorize the Assessor-Recorder-County Clerk or Departmental Information Systems Administrator to electronically accept the Agreement for the Dropbox file management and transfer services, subject to County Counsel review for a period of March 1, 2022 through February 28, 2027.

Non-Financial Terms of Service Agreement with Dropbox, Inc. for File Management and Transfer Services
March 1, 2022

The Agreement is Dropbox's standard commercial contract, which governs the County's use of Dropbox's file management and transfer services. The Agreement includes terms and conditions that differ from the standard County contract and omits certain County standard contract terms. The non-standard and missing terms include the following:

1. The Agreement does not require Dropbox to meet the County's indemnification standards required by County Policy 11-07.
 - The County standard contract does not include any indemnification by the County of a contractor.
 - Potential Impact: Without an indemnification clause, neither Dropbox or the County contractually claim compensation for specific damages or expenses.
2. The Agreement does not require Dropbox to meet the County's insurance standards required by County Policy 11-07.
 - The County standard contract requires contractors to carry appropriate insurance standards as provided in County Policy 11-07.
 - Potential Impact: The Agreement does not include County standard insurance requirements. This means the County has no assurance that Dropbox will be financially responsible for claims that may arise from the County's use of the services, which could result in expenses to the County that exceed the total contract amount.
3. Dropbox or its affiliates shall not be liable for any direct, special, incidental, punitive, exemplary, or consequential damages or any loss of use, data, business, or profits, regardless of legal theory.
 - The County's standard contract does not include a limitation of liability.
 - Potential Impact: The County would be financially liable for any claim arising from this Agreement.
4. Dropbox disclaims all warranties of any kind, whether expressed or implied including, but not limited to, warranties of title, non-infringement or implied warranties of merchantability or fitness for a particular purpose or otherwise.
 - The County standard contract requires the contractor to fully warrant its services and products.
 - Potential Impact: The County would be unable to obtain any recovery for warranty breaches.
5. Dropbox may assign its rights to any of its affiliates or subsidiaries, or to any successor in interest of any business associated with the Services.
 - The County standard contract requires the County's approval of any assignment.
 - Potential Impact: Dropbox may assign the Agreement to a third party or business with without the County's knowledge or approval. This could lead to the County having policy, conflict of interest, or other issues with the assignee.

The recommended Agreement, including non-standard terms, will allow the ARC to operate in a fiscally-responsible and business-like manner, and improve County government operations by enabling the ARC to purchase a subscription, to be approved as necessary, to utilize Dropbox's file management and transfer services, which are vital to daily operations.

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March 1, 2022

PROCUREMENT

The Agreement, including non-standard terms, will be used to make future purchases to be approved as necessary, in accordance with County Policy 11-04, Procurement of Goods, Supplies, Equipment, and Services.

County Policy 11-05 requires departments to obtain Board approval for procurement of goods and services with non-standard terms and conditions.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Stephanie Gutierrez, Deputy County Counsel, 387-5455) on February 3, 2022; Purchasing (Bruce Cole, Supervising Buyer, 387-2148) on February 8, 2022; Risk Management (Victor Tordesillas, Director, 386-8621) on February 11, 2022; Finance (Carl Lofton, Finance Analyst, 387-5404) on February 14, 2022; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on February 14, 2022.

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Management and Transfer Services
March 1, 2022**

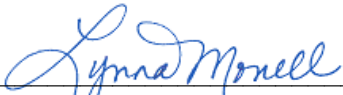
Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Joe Baca, Jr. Seconded: Dawn Rowe

Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: March 1, 2022



cc: ARC - Gaeta w/agree
Contractor - C/O ARC w/agree
File - w/agree
CCM 03/2/2022