

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

August 8, 2023

FROM

TOM BUNTON, County Counsel

VICTOR TORDESILLAS, Director, Department of Risk Management

SUBJECT

Amendments to Agreement with MOXFIVE LLC and Cipriani & Werner, P.C. for Data Migration Services

RECOMMENDATION(S)

1. Ratify approval of **Amendment No. 3** to **Agreement No. 23-516** between the County, MOXFIVE LLC and Cipriani & Werner, P.C., increasing the contract amount by \$19,500, from \$34,500 to a total contract amount of \$54,000, to continue to engage third-party data migration services from Total Data Migration LLC, with no change to the contract period effective April 27, 2023, until terminated by either party.
2. Ratify approval of **Amendment No. 4** to **Agreement No. 23-516** between the County, MOXFIVE LLC and Cipriani & Werner, P.C., increasing the contract amount by \$80,200, from \$54,000 to a total contract amount of \$134,200, to continue to engage third-party data migration services from Total Data Migration LLC, with no change to the contract period effective April 27, 2023, until terminated by either party.
3. Approve **Amendment No. 5** to **Agreement No. 23-516** between the County, MOXFIVE LLC and Cipriani & Werner, P.C., increasing the contract amount by \$521,300, from \$134,200 to a total contract amount of \$655,500, for additional third-party data migration services from Total Data Migration LLC, with no change to the contract period effective April 27, 2023, until terminated by either party.
4. Authorize the Chief Executive Officer or the County Counsel to approve revisions to the scope of work in Agreement No. 23-516 with MOXFIVE LLC and Cipriani & Werner, P.C., in an aggregate amount not-to-exceed \$100,000.

(Presenter: Tom Bunton, County Counsel, 387-5455)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

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

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The total agreement cost of \$655,500 will be paid from the Department of Risk Management's (DRM) Other General Liability insurance fund and will be offset with a reimbursement from the County's excess cyber liability insurance policy. Sufficient appropriation and revenue are included in the 2023-24 DRM Other General Liability budget and will be included in future recommended budgets, as necessary.

BACKGROUND INFORMATION

On April 7, 2023, the Sheriff's Department became aware of a network disruption that affected a sector of its systems. Upon discovering this incident, the County immediately secured the network and began working with the Innovation and Technology Department and third-party forensic specialists to investigate the incident. The County has referred the incident to partnering law enforcement agencies, including the Federal Bureau of Investigations and the Department of Homeland Security.

On June 13, 2023 (Item No. 35), the Board of Supervisors (Board) ratified approval of Agreement No. 23-516, including non-standard terms, between the County, MOXFIVE LLC (MOXFIVE) and Cipriani & Werner, P.C. (Cipriani), in the amount of \$8,250, to obtain third-party data migration services from Total Data Migration LLC, for the contract period effective April 27, 2023, until terminated by either party. This same agenda item also ratified approval of Amendment No. 1 to the agreement in the amount of \$14,750, and Amendment No. 2 in the amount of \$11,500, bringing the total amount of Agreement No. 23-516 to \$34,500. The Board also authorized the Chief Executive Officer or the County Counsel to approve revisions to Agreement No. 23-516 in an amount not-to-exceed \$100,000.

On June 8, 2023, the County Counsel signed Amendment No. 3 to Agreement No. 23-516 in the amount of \$19,500, for a total agreement amount of \$54,000. Due to an immediate need for assistance, County Counsel was not able to wait until June 13, 2023, for the Board's approval and is seeking ratification of the approval of Amendment No. 3.

On July 27, 2023, the County Counsel signed Amendment No. 4 to Agreement No. 23-516 in the amount of \$80,200, for a total agreement amount of \$134,200, to provide for eight terabytes of data recovery. County Counsel signed the amendment under the Board's delegated authority approved on June 13, 2023 (Item No. 35). The purpose of having the Board ratify Amendment No. 4, and continue the delegated authority as per Recommendation No. 4, is to sustain the granted delegated authority of the Chief Executive Officer or the County Counsel for the approval of amendments to the agreement in an amount not-to-exceed \$100,000 for all future changes to the scope of work. This will allow the County to promptly respond to any necessary revisions in the agreement's scope of work.

Recommendation No. 3 requests approval of Amendment No. 5 to Agreement No. 23-516 in the amount of \$521,300, for a total amount of \$655,500. The recommended amendment will continue the third-party data migration services, up to 52 terabytes of data, and assist the County in recovering data.

PROCUREMENT

County Code section 12.1908 authorized County Counsel to select and retain specialized outside legal counsel. Due to the need to quickly retain specialized legal counsel and the associated consultant, there was insufficient time for a competitive procurement. The County's emergency procurement Policy 11-04, subsection 8.B, allows for non-competitive purchases for emergencies such as the preservation of life or property, or when immediate action is necessary and undue delay would cause substantial loss to the County. This policy requires approval and confirmation by the Board for purchases exceeding \$200,000. The Purchasing Department agrees with the continued non-competitive procurement for these services given the immediate need for data recovery and migration.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Julie Surber, Principal Assistant County Counsel, 387-5455) on July 18, 2023; Purchasing (Leo Gomez, Purchasing Manager, 387-2063) on August 1, 2023; Risk Management (Victor Tordesillas, Director, 386-8623) on July 28, 2023; Finance (Carl Lofton, Administrative Analyst, 387-5404 and Ivan Ramirez, Administrative Analyst, 387-4020) on August 1, 2023; and County Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer, 387-5423) on August 3, 2023.

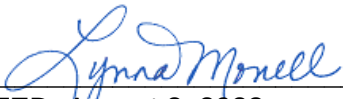
**Amendments to Agreement with MOXFIVE LLC and Cipriani & Werner,
P.C. for Data Migration Services
August 8, 2023**

Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: August 8, 2023



cc: CC- Bunton w/agree
 Contractor- C/O CC w/agree
 File- w/agree
LA 08/10/2023