

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

June 10, 2025

FROM

SHANNON D. DICUS, Sheriff/Coroner/Public Administrator

SUBJECT

Purchase Order with Alan McClintock, dba Mobile Wireless, LLC for Absolute Secure Access NetMotion Software Licenses and Absolute Master Subscription Agreement

RECOMMENDATION(S)

1. Approve a non-financial Master Subscription **Agreement No. 25-432**, including non-standard terms, with Absolute Software, Inc. for the period of April 20, 2025 through April 19, 2026.
2. Approve the issuance of a Purchase Order to Alan McClintock, dba Mobile Wireless, LLC, in the amount of \$331,000 for a subscription to NetMotion hosted secure remote access software by Absolute Software, Inc. for the period of April 20, 2025 through April 19, 2026.
3. Authorize the Sheriff/Coroner/Public Administrator's Departmental Information Systems Administrator, to electronically accept the Absolute Software, Inc. Master Subscription Agreement and to accept updates to the Absolute Software, Inc. Master Subscription Agreement, subject to review by County Counsel, provided that such updates do not substantively modify the terms applicable to the County.
4. Direct the Sheriff/Coroner/Public Administrator's Departmental Information Systems Administrator, to transmit printed copies of any updated terms related to the Absolute Software, Inc. Master Subscription Agreement to the Clerk of the Board of Supervisors within 30 days of electronic acceptance.

(Presenter: Carolina Mendoza, Chief Deputy Director, 387-0640)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

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

Provide for the Safety, Health and Social Service Needs of County Residents.

FINANCIAL IMPACT

Approval of this item will not result in the use of Discretionary General Funding (Net County Cost). The total cost of \$331,000 for the purchase of the Absolute Software, Inc. (Absolute) NetMotion secure access software licenses (NetMotion) from Alan McClintock, dba Mobile Wireless, LLC (Mobile Wireless), is included in the Sheriff/Coroner/ Public Administrator's (Department) 2024-25 budget.

BACKGROUND INFORMATION

The Department's Technical Services Division (TSD) is responsible for all computer-related technology, data, and communications systems within the Department and provides direct end-user support, ongoing maintenance, enhancements, and upgrades to departmental systems. TSD's end user support includes designing, testing, and managing the Department's mobile

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data computer (MDC) systems that support wireless computing services for law enforcement vehicles throughout the County. Advancements to law enforcement technology require that TSD continually enhance current systems to help improve investigative capabilities, protect information, provide secure data storage, and have timely access to accurate information.

TSD has been using NetMotion software since 2012 to comply with the established data security certification protocols for law enforcement agencies. Those protocols are set by the Criminal Justice Information Services (CJIS) division of the Federal Bureau of Investigation, and the California Department of Justice. As a law enforcement agency, the Department must maintain CJIS certification which requires using encrypted virtual private network (VPN), connections to share data with MDCs and other mobile telecommunication devices used to connect to the Department's network. NetMotion's hosted secure remote access software, provides the required secured and encrypted data sharing via VPN channels for authorized users.

Due to an administrative oversight, the Department did not conduct a formal competitive procurement process to secure bids to continue the use of NetMotion before the prior licensed period expired on April 19, 2025. New internal administrative procedures have been established to prevent this situation from happening in the future. Approval of the Purchase Order will allow the Department sufficient time to conduct the competitive process for NetMotion beyond April 19, 2026.

The Absolute Master Subscription Agreement (Agreement) is Absolute's standard commercial contract, which includes terms that differ from the standard County contract and omits certain County standard contract terms. The Agreement is a non-negotiable clickwrap accepted by click-to-accept. The non-standard and missing terms include the following:

1.

Governing law is the State of Delaware.

 - The County standard contract requires California governing law.
 - Potential Impact: The Agreement will be interpreted under Delaware law. Any questions, issues or claims arising under this Agreement will require the County to hire outside counsel competent to advise on Delaware law, which may result in fees that exceed the total Agreement amount.

2.

Absolute may assign the Agreement without notice to the County and without the County's approval.

 - The County standard contract requires that the County must approve any assignment of the contract.
 - Potential Impact: Absolute could assign the Agreement to a third party or business with which the County is legally prohibited from doing business due to issues of Federal debarment or suspension and conflict of interest, without the County's knowledge. Should this occur, the County could be out of compliance with the law until it becomes aware of the assignment and terminates the Agreement. County Counsel cannot advise on whether and to what extent Delaware law may permit or restrict a party's right to assign without an express provision in the Agreement.

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3. There is no provision in the Agreement addressing each party's responsibility for paying attorneys' fees.
 - The County standard contract requires each party to bear its own costs and attorney fees, regardless of who is the prevailing party.
 - Potential Impact: County Counsel cannot advise on, whether and to what extent, Delaware law may affect a party's requirement to pay the prevailing party's attorneys' fees and costs in a legal action where no specific provision is provided in the Agreement.

4. The County is required to indemnify Absolute against third party claims: (a) alleging that Absolute's use of County data infringes or misappropriates any third party's rights or violates any laws; or (b) arising from the misuse of any Absolute IP by Customer.
 - The County standard contract does not include any indemnification or defense by the County of a contractor.
 - Potential Impact: By agreeing to indemnify Absolute, the County could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against the County, time limited, or expense limited could be brought against Absolute without such limitations and the County could be responsible to defend and reimburse Absolute for costs, expenses, and damages, which could exceed the total Agreement amount. County Counsel cannot advise on, whether and to what extent, Delaware law may limit or expand this Agreement term.

5. The Agreement does not require Absolute to meet the County's insurance standards as required pursuant to County Policies, 11-05, 11-07 and 11-07SP.
 - County policy requires contractors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department and as set forth in County policy and in the County standard contract.
 - Potential Impact: The County has no assurance that Absolute will be financially responsible for claims that may arise under the Agreement, which could result in expenses to the County that exceed the total Agreement amount.

6. Absolute's total aggregate liability to the County is limited to the amount paid or payable by the County under the order forms giving rise to the claim during the 12-month period prior to the date the claim arose, except for Absolute's indemnification obligations or Absolute's breach of confidentiality.
 - The County standard contract does not include a limitation of liability.
 - Potential Impact: Claims could exceed the liability cap and the Agreement amount leaving the County financially liable for the excess. County Counsel cannot advise on, whether and to what extent, Delaware law may limit or expand the exclusion of limits to the extent prohibited by applicable law.

7. Venue for disputes arising under the Agreement is in the State of Delaware.
 - County Policy 11-05 requires venue for disputes in Superior Court of California, County of San Bernardino, San Bernardino District.

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- Potential Impact: Having a venue in Delaware may result in additional expenses that exceed the amount of the Agreement.

The Department recommends approval of the Agreement with Absolute, including the non-standard terms, for continued use of the software used to comply with the established data security certification protocols for law enforcement agencies.

PROCUREMENT

The Department secured three bids from NetMotion’s authorized distributors for 2,000 licenses for the period starting retroactively from April 20, 2025 to April 19, 2026, as follows:

Distributor	Location	Cost
CDCE, Inc.	Yorba Linda, CA	\$372,000
DuraTech USA, Inc.	Westminster, CA	\$347,320
Alan McClintock, dba Mobile Wireless, LLC	Flower Mound, TX	\$331,000

County Policy 11-04, Procurement of Goods, Supplies, Equipment, and Services, requires the Department to seek Board approval for competitive and non-competitive purchases of services in excess of \$200,000 annually.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Bonnie Uphold, Supervising Deputy County Counsel, 387-5455) on June 3, 2025; Purchasing (Jason Cloninger, Lead Buyer, 387-0321) on June 3, 2025; Risk Management (Gregory Ustaszewski, Staff Analyst, 386-9008) on June 3, 2025; Finance (Erika Rodarte, Administrative Analyst, 387-4919) on June 4, 2025; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on June 4, 2025.

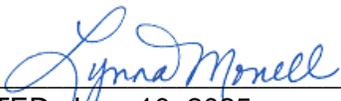
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

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

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: June 10, 2025



cc: Sheriff - Mendoza w/agree
Contractor - c/o Sheriff w/agree
File - w/agree
MBA 06/24/2025