

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

August 20, 2024

FROM

**SHANNON D. DICUS, Sheriff/Coroner/Public Administrator
TRACY REECE, Chief Probation Officer**

SUBJECT

Contract with Innovative Discovery LLC dba Innovative Driven for Legal Redaction Services

RECOMMENDATION(S)

1. Approve the following contracts, which include the Business Associate Agreement, for legal redaction services, including a non-standard term, in the amount of \$200,000 per year per contract, for a total aggregate per contract amount of \$600,000, for the period of August 20, 2024 through August 19, 2027, with the option to extend each contract by one additional two-year period, or two additional one-year periods:
 - a. **Contract No. 24-759** with Innovative Discovery LLC dba Innovative Driven, for the Sheriff/Coroner/Public Administrator.
 - b. **Contract No. 24-760** with Innovative Discovery LLC dba Innovative Driven for the Probation Department.
2. Authorize the Sheriff/Coroner/Public Administrator or Undersheriff, and the Chief Probation Officer or Assistant Chief Probation Officer, to execute change orders to their respective contracts, referenced in Recommendation No. 1, as needed, subject to review by County Counsel, so long as the total aggregate amount of such change orders to the respective contracts does not exceed \$90,000 (15%), and the change orders do not amend the contract terms.
3. Direct the Sheriff/Coroner/Public Administrator or Undersheriff, and the Chief Probation Officer or Assistant Chief Probation Officer, to transmit copies of all change orders to their respective contracts, referenced in Recommendation No. 1, to the Clerk of the Board of Supervisors within 30 days of execution.

(Presenter: Kelly Welty, Chief Deputy Director, 387-3760)

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 additional Discretionary General Funding (Net County Cost). Aggregate costs of legal redaction services in the amount of \$600,000 for each of the Sheriff/Coroner/Public Administrator (Sheriff) and Probation Department (Probation) will be funded through the use of available Proposition 172 funding. Adequate appropriation in the amount of \$200,000 for the first year of services for each department has been included in the respective 2024-25 department budgets and will be included in the future respective recommended budgets.

BACKGROUND INFORMATION

California Senate Bills 1421 and 16 expanded public access under the California Public Records Act (CPRA) to certain peace officer records including, but not limited to, use-of-force incidents, sexual assault, and acts of dishonesty; however, Penal Code sections 832.7 and 832.8 require that certain personnel records maintained by a state or local agency, or information obtained from these records, shall be confidential and not be disclosed in any criminal or civil proceeding except by discovery pursuant to sections 1043 and 1046 of the Evidence Code.

To maintain compliance with Penal Code section 832.7 and the CPRA, Sheriff and Probation are required to redact certain material from the records that must be released, such as personal data or information for which disclosure would cause an unwarranted invasion of personal privacy. Because Senate Bills 1421 and 16 are retroactive, they have required the departments to review and redact not only hundreds of thousands of pages of paper, audio, and video records per year of older records under mandated deadlines, but also for the departments to keep current with processing a similar volume of new records that fall under the legislation.

Completing these tasks has been extremely challenging utilizing existing staffing levels. Currently, each department's County Counsel and legal support team utilizes software to manually fulfill the required records review, analysis, redaction, and production of documents for CPRA requests. Sheriff and Probation both process and maintain sensitive and confidential information with the goal of enabling a more efficient, accurate, and cost-effective way to produce records pursuant to applicable law, while also ensuring the integrity of the documents and maintaining confidentiality and proper storage and disposal of electronic records.

Approval of Recommendation No. 1 will allow Innovative Discovery LLC dba Innovative Driven (Innovative Driven) to provide legal redaction services to Sheriff and Probation. Through Innovative Driven's more advanced technology resources, and expanded staffing capability, the high volume of review and redaction of records will be handled in a more expeditious manner.

Approval of Recommendation No. 2 authorizes the Sheriff or Undersheriff, and the Chief Probation Officer or Assistant Chief Probation Officer, to execute change orders to their respective contracts, as needed, subject to review by County Counsel, so long as the total amount of the change orders does not exceed \$90,000 (15%) nor amend the contract terms.

The proposed contracts with Innovative Driven contain the following non-standard term that differs from the standard County contract:

1. The County's Business Associate Agreement pertaining, generally, to protected health information (Attachment B to the respective contracts) limits Innovative Driven's liability to \$10,000,000 in the event of a breach of the Business Associate Agreement (only) during the three-year contract period; further, Innovative Driven shall not be liable for any consequential, incidental, or special damages (including, without limitation, damages for loss of business profits, business interruption, spoliation of evidence, and/or loss of business information) arising under the Business Associate Agreement (only), even if Innovative Driven was informed of the possibility of such damages.

(c) The County standard contract does not include a limitation of liability.

(d) Potential Impact: Claims arising under the Business Associate Agreement could exceed the liability cap, leaving the County financially liable for the excess.

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While this is a notable exception to the County's standard contract language, Sheriff and Probation recommend approval of the respective contracts with Innovative Driven, including the non-standard term, to provide legal redaction services to maintain sensitive and confidential information as required by law. County Counsel and Risk Management Department have provided input on the proposed contracts.

PROCUREMENT

On January 4, 2024, Request for Proposal (RFP) No. SHR124-ADMSR-5197 was approved and released through the County's Electronic Procurement Network (ePro) for the provision of legal redaction services. The RFP was posted for 21 days, and 425 registered vendors were notified. Innovative Driven was the only vendor that responded.

An evaluation committee consisting of representatives from Sheriff, County Counsel, and Probation evaluated the proposal. The evaluation was based on the Proposer's qualifications and experience, financial statements, professional references, and proposed fees. As a result, the committee recommended Innovative Driven for contract award, having demonstrated the ability to best meet the needs of the County. No protests or appeals were received. Either party may terminate the contract upon 30 days' advanced written notice.

County Policy No. 11-04 requires Board of Supervisors approval for all contracts for services that exceed \$200,000 in aggregate cost per scope of service, per vendor, per department.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Grace B. Parsons, and Maria Insixiengmay, Deputies County Counsel, 387-5455) on July 12, 2024; Purchasing (Jason Cloninger, Lead Buyer, 387-0321) on July 10, 2024; Probation (Thomas Kamara, Director of Probation Administration, 387-9631) on July 12, 2024; Risk Management (Greg Ustaszewski, Staff Analyst, 386-9008) on July 30, 2024; Finance (Erika Rodarte, 387-4919, and Iliana Rodriguez, 387-4205, Administrative Analysts) on August 1, 2024; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on August 5, 2024.

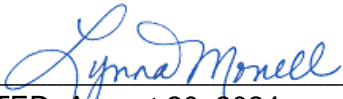
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Record of Action of the Board of Supervisors
San Bernardino County

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 20, 2024



cc: Sheriff/Coroner - Welty w/agree
Contractor - c/o Sheriff/Coroner w/agree
File - w/agree
MBA 08/21/2024