

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

June 10, 2025

FROM

JOSIE GONZALES, Assessor-Recorder-County Clerk

SUBJECT

Cooperative Purchasing Agreement with Kofile Technologies, Inc., to Provide Records Restoration, Preservation, and Storage Services

RECOMMENDATION(S)

Approve **Cooperative Purchasing Agreement No. 25-389** with Kofile Technologies, Inc., including non-standard terms, to provide records restoration, preservation, and storage services, in the amount of \$2,719,772 for a total contract term of June 10, 2025, through June 10, 2026.

(Presenter: Josie Gonzales, Assessor-Recorder-County Clerk, 382-3208)

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 total amount to complete the Assessor Lot Books Project is \$2,719,772. Adequate appropriation and revenue have been included in the County Archives Special Revenue Fund 2024-25 Budget (3110002347).

BACKGROUND INFORMATION

The Recorder-County Clerk's Division of the Assessor/Recorder/County Clerk (ARC), has the custody of, and shall keep all books, records, maps, and papers deposited in the recorder's office, as required by California Government Code (CGC) 27231. These are original, historical, and irreplaceable records that must be maintained indefinitely at the County Archives. When in book form, these volumes must be well-bound and housed appropriately (CGC 27322). CGC 66466(e) stipulates that maps shall be stored for safekeeping in a reproducible condition. Keeping a document in reproducible condition requires that active steps are taken to preserve the record.

On August 21, 2024, the Board of Supervisors (BOS) toured the County Archives and staff identified three sets of documents that need to be preserved. The sets of documents include County Map (Assessor Lot) Books, Deeds and Indexes, and Board Minutes and Ordinances. On April 29, 2025 (BAI # 86) the BOS approved a \$3.0 million allocation to fund activities associated with preservation and digitization of these critical sets of records. The agreement (Agreement) with Kofile Technologies, Inc. (Kofile) will provide inclusive services for the

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preservation, digital imaging, and microfilming of the first set of documents, which includes 232 County Map (Assessor Lot) Books with an estimate of 46,029 pages. It is critical that these Map Books are preserved and restored properly since many of these documents are the only existing copy of these records, making them irreplaceable.

The recommended Agreement with Kofile, includes three types of work, all of which are vital to daily operations:

1. Preservation - Conservation Treatments, Deacidify, Encapsulate, and Bind
2. Imaging - Capture, Processing, and Enhancement
3. Microfilm – Security Backup for Disaster Recovery

This Agreement is necessary to enable the Recorder-County Clerk Division and County Archives to meet government mandates and to support the data management plans of the ARC.

The Recorder-County Clerk Division and County Archives recommend moving forward with restoration, preservation, and storage services for these essential records to ensure the accessibility of the information contained within them for generations to come, ensuring business continuity. The information contained in these essential records, which dates back to 1915, is requested daily and accessing it in its current state causes damage and data loss. Currently, these records are unprotected from water, fire, and chemical decomposition. After project completion, the records will be stabilized, their information available for digital access, and an immutable long-term copy of them will exist.

The Agreement is Kofile's standard contract, which includes terms that differ from the standard County contract and omits County standard contract terms. The non-standard and missing terms include the following:

1. The Agreement contains an indemnity provision that is not consistent with the County standard contract. Kofile limits its indemnification obligations in the Agreement to claims arising from their negligent acts and willful misconduct, and its indemnity obligations will not extend to claims that arise from the negligent acts, errors or omissions, or willful misconduct of the County.
 - The County standard contract indemnity provision requires the contractor to indemnify, defend, and hold County harmless from third party claims arising out of the acts, errors or omissions of any person
 - Potential Impact: The limit of the indemnification obligation to Kofile's negligence or willful misconduct means that any claim that does not require these conditions, such as breach of contract, intellectual property indemnity or strict liability, are excluded from Kofile's indemnification obligations. In addition, such claims would be subject to the limitation of liability.
2. The Agreement does not include all standard County insurance requirements.
 - The County standard contract requires contractors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department.
 - Potential Impact: The Agreement does not include all the County's standard insurance requirements. This means that the County has no assurance that Kofile will be financially responsible for claims that may arise from the Agreement, which could result in expenses to the County that exceed the total Agreement amount.

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3. The Agreement contains a limitation of liability, which includes claims exceeding the fees paid by the County to Kofile in the most recent 12 months, and any incidental, consequential, indirect, punitive, intrinsic value, or special damages.
 - The County standard contract does not include a limitation of liability.
 - Potential Impact: Kofile caps its liability to the County for claims arising under the Agreement to the fees paid by the County to Kofile in the most recent 12 months. Claims could exceed the liability cap and the Agreement amount leaving the County financially liable for the excess. In addition, the County's liability under the Agreement is not similarly limited.
4. There is no stated venue in the Agreement.
 - The County standard contract requires venue for disputes in Superior Court of California, County of San Bernardino, San Bernardino District.
 - Potential Impact: Contractor is located in Dallas, Texas. Having no express venue in the Agreement means that Dallas County venue could be applied to this Agreement, which may result in additional expenses that exceed the amount of the Agreement.
5. The Agreement is silent on governing law.
 - The County standard contract requires California governing law.
 - Potential Impact: The Agreement is silent on governing law. This results in uncertainty over which state's laws will govern the interpretation of the Agreement and leads to ambiguity in interpretation of the Agreement terms. Kofile is a corporation based in the State of Texas. The Agreement could be interpreted under any state law depending on where the claim is brought, including Texas or California. Any questions, issues or claims arising under this Agreement could require the County to hire outside counsel competent to advise on the applicable state law, which may result in fees that exceed the total Agreement amount.

The ARC recommends approval of the Agreement with Kofile, including non-standard terms, to ensure the accessibility of the information contained within them for generations to come, ensuring business continuity.

PROCUREMENT

OMNIA Partners is the largest and most experienced purchasing organization for public and private sector procurement. OMNIA Partners and Region 4 Education Service Center (ESC) partnered to release the Request for Proposals (RFP) No. R231003 for digital solutions and records management on January 7, 2024. The proposals were evaluated based on product, pricing, performance capability, qualifications, experience, and value add. The contract was awarded to Kofile for a three-year term, effective July 1, 2024, through June 30, 2027. Contract No. R231003 is available to other public agencies nationally, including state and local governmental agencies, through OMNIA Partners' cooperative purchasing program. Region 4 ESC is acting as the contracting agency for any other Public Agency that elects to utilize the resulting Master Agreement.

Kofile is the developer, manufacturer, and distributor of the Disaster Safety County Binder (DSB). Kofile owns the patent on the DSB, and no other company can offer it. In addition, Kofile can provide any required services at one facility and without the use of subcontractors. Their ability to provide these services reduces cost, mitigates risk, and ensures quality digital images free of distortion and information loss with capture from the original source. No other vendor provides this level of technology. Purchasing supports this competitive procurement based on the RFP mentioned above.

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REVIEW BY OTHERS

This item has been reviewed by County Counsel (Kenneth Brown, Deputy County Counsel, 387-5455) on May 16, 2025; Risk Management (Stephanie Pacheco, Staff Analyst II, 386-9039) on May 16, 2025; Purchasing (Ariel Gill, Supervising Buyer, 387-2070) on May 15, 2025; Finance (Kathleen Gonzalez, Administrative Analyst, 387-5412) on May 22, 2025; Finance and Administration (Paloma Hernandez-Barker, Deputy Executive Officer) on May 23, 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: ARC - Preston w/agree
Contractor - c/o ARC w/agree
File - w/agree

CCM 06/20/2025