



# San Bernardino County

## Legislation Text

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**File #: 2833, Agenda Item #: 61**

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

**September 15, 2020**

#### **FROM**

**JOHN McMAHON, Sheriff/Coroner/Public Administrator**

#### **SUBJECT**

Revenue Contract with Securus Technologies, Inc. for the Provision of Inmate Telephone Services

#### **RECOMMENDATION(S)**

1. Approve Revenue Contract with Securus Technologies Inc., for the provision of inmate telephone services, in the minimum annual guaranteed revenue amount of \$3,500,000 for the period of October 1, 2020 through September 30, 2028.
  2. Direct the Sheriff/Coroner/Public Administrator, Undersheriff, or Assistant Sheriff, to transmit all contract change orders to the Clerk of the Board of Supervisors within 30 days of execution.
- (Presenter: John Ades, Captain, 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 additional Discretionary General Funding (Net County Cost). Revenue from the inmate telephone services contract is based upon call volume but includes a Minimum Annual Guarantee (MAG) of \$3,500,000, or 81% of commissionable revenue, whichever is higher. In accordance with California Penal Code Section 4025, commissions received from inmate telephone services are deposited into the Inmate Welfare Trust Fund to fund inmate programs. Expenditures are monitored to comply with spending limitations and to not exceed program revenues.

#### **BACKGROUND INFORMATION**

State and Federal law requires the Sheriff/Coroner/Public Administrator (Department) to provide telephone access to inmates incarcerated in County detention facilities. Inmate telephone services are a specialized field with limited service providers that can accommodate large correctional facilities.

On June 23, 2020 (Item No. 92), the Board of Supervisors (Board), awarded a revenue contract with Securus Technologies Inc. (Securus), with the minimum annual guaranteed revenue amount of \$3,500,000, for the period of October 1, 2020 through September 30, 2028 for the provision of inmate telephone services.

Award of the revenue contract on June 23, 2020 allowed the Department to maintain uninterrupted inmate telephone services while continuing contract negotiations of County terms and conditions with Securus, and

completing the required operational, fiscal and legal reviews to submit the final contract to the Board for approval.

## **PROCUREMENT**

Upon further negotiations with Securus, the Department finalized the terms and conditions of the agreement. Non-standard contract terms and conditions include the following:

1. Contract Term:

- a. Standard Term: The County's standard contract term is five years. Indefinite contract terms are not permitted.
- b. Contract Term: The initial term will begin as of the Effective Date and will end on the date that is 96 months thereafter.
- c. Potential Impact: Extending the standard contract term solidifies the County's ability to receive revenue from inmate telephone services for a longer period, albeit future State or Federal legislation may prohibit the receipt of such funds. Additionally, the existence of a long term contract may allow the County to continue receiving funds if the law changes.

2. Insurance:

- a. Standard Term: Insurance terms and conditions must mirror the insurance provision in County Standard Practice 11-07.
- b. Contract Term: Securus meets all of NASPO's required standard insurance requirements, even those exceeding the County's current policy coverage requirements. However, the contract does not fully mirror current County insurance terms and conditions.
- c. Potential Impact: While NASPO requirements do not mirror the County requirements precisely (no "explosion, collapse and underground hazards" insurance nor "products and completed operations" insurance), the vast majority of the County terms are satisfied and at least one portion exceeds the County requirement (worker's compensation).

3. Waiver of Subrogation Rights:

- a. Standard Term: The County requires Contractor to require the carriers of all required coverages to waive their rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors.
- b. Contract Term: The Contract contains only a waiver of subrogation rights for Worker's Compensation and Employer's Liability insurance.
- c. Potential Impact: Due to the remote services the Contractor provides, the County's risk is focused on worker's compensation and employer liability. Securus employees are not anticipated to access equipment, much less be in California. Telephone lines and equipment were installed during construction of the building. Another remote risk is potential disclosure of electronic information. While there is no waiver of subrogation for this issue, Securus is required to provide cyber insurance to cover this type of liability. Also, if there were a breach, the breaching party would not be able to utilize the information because it is in a proprietary form that would appear as gibberish without a specific program to access it. The NASPO waiver language in the contract prevents Securus from pursuing reimbursement from the County for damages related to workers' compensation even in situations where the County is at fault, but still allows Securus the ability to pursue reimbursement for general liability or cyber losses.

Approval of the Recommendations will update contract language for the provision of inmate telephone services with no change to the 96-month term of October 1, 2020 through September 30, 2028, and no change to the minimum guaranteed contract amount. The contract provides for termination by either party upon 30 days' written notice for all, or part, of the services described therein.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Richard D. Luczak, Deputy County Counsel, 387-5455) on August 20, 2020; Purchasing Department (Michael Candelaria, Lead Buyer, 387-2060) on August 20, 2020; Risk Management (LeAnna Williams, Director, 386-8623) on August 26, 2020; Finance (Carolina Mendoza, Administrative Analyst, 387-0294) on August 10, 2020; and County Finance and Administration (Kelly Welty, Deputy Executive Officer, 387-5423) on August 10, 2020.