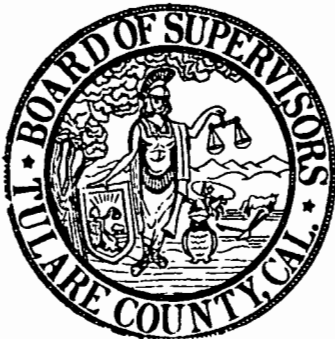


**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF APPROVE AN)
AGREEMENT WITH EVERBRIDGE INC.) Resolution No. 2018-0536
) Agreement No. 28712

UPON MOTION OF SUPERVISOR ENNIS, SECONDED BY SUPERVISOR CROCKER, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD JUNE 26, 2018, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS CROCKER, VANDER POEL, SHUKLIAN, WORTHLEY,
AND ENNIS
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE



ATTEST: MICHAEL C. SPATA
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: Mary Rovello
Deputy Clerk

* * * * *

1. Approved an agreement with Everbridge Inc. to provide emergency mass notification services for a period of July 1, 2018 through June 30, 2019, in an amount of \$93,000; and
2. Authorized the Chairman of the Board to sign three (3) copies of the agreement.



**Health & Human Services
Agency
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One
PETE VANDER POEL
District Two
AMY SHUKLIAN
District Three
J. STEVEN WORTHLEY
District Four
MIKE ENNIS
District Five

AGENDA DATE: June 26, 2018

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
County Counsel Sign-Off	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>

CONTACT PERSON: Andrew Lockman PHONE: 559-624-8000

SUBJECT: Approve an agreement with Everbridge Inc.

REQUEST(S):

That the Board of Supervisors:

1. Approve an agreement with Everbridge Inc. to provide emergency mass notification services for a period of July 1, 2018 through June 30, 2019, in an amount of \$93,000; and
2. Authorize the Chairman of the Board to sign three (3) copies of the agreement

SUMMARY:

Tulare County has contracted with Everbridge Inc. since May 2013 under Agreement No. 26031, as amended, to power the County's mass notification system, AlertTC. AlertTC is a shared resource administered by the Tulare County Office of Emergency Services and is currently utilized by over 250 users across multiple Tulare County departments (including Fire, HHSA, IT, Probation, and Sheriff), each of the eight incorporated cities, the Tule River Tribe, Kaweah Delta Hospital, Sequoia/Kings Canyon National Parks, and College of the Sequoias. AlertTC has been successfully integrated into numerous business processes across these partners, and is now used more than once a day on average for critical internal and external communications needs.

AlertTC is frequently used during critical fire and law enforcement incidents to deliver time-sensitive evacuation notices and to activate specialized resources such

SUBJECT: Approve an agreement with Everbridge Inc.

DATE: June 26, 2018

as dive and tactical teams. AlertTC also provides the County's platform for initiation of Wireless Emergency Alerts and Emergency Alert System broadcasts through the national Integrated Public Alert and Warning System (IPAWS)

Everbridge's service and performance powering the AlertTC platform over the past five years have been exemplary. During that time, the company has continued to solidify its standing as a global market leader, and most neighboring jurisdictions are now utilizing Everbridge for their mass notification systems. The County enjoys a strong partnership with Everbridge as part of the Platinum Account program, which gives the County additional input into the ongoing development of the platform and product roadmap.

Given the tight integration with existing business processes throughout the County, and the mutually beneficial strategic partnership, staff requests the approval of the updated agreement to continue utilizing Everbridge to power AlertTC.

This agreement has been approved as to form by County Counsel; however, there were several modifications to the County boilerplate, and the following terms deviate substantively from the standard County boilerplate:

1. The parties negotiated changes to several of the provisions in the "General Agreement Terms and Conditions", including the following:
 - a. Due to nature of the services provided (off-the-shelf software), the parties modified the language in the paragraph, "Payment does not imply acceptance of work."
 - b. Services are being paid in advance, and contractor is not required to refund County for unused amounts in the event the agreement is terminated for convenience, or if payments are later disallowed by the State or Federal government.
 - c. Parties removed the provision that failure to provide evidence of renewal of insurance would constitute a material breach, but left in the expectation that failure to maintain or renew coverage would constitute a breach.
 - d. Contractor's indemnification and defense of County is more limited than the current approved boilerplate for several reasons, including: It specifically exempts any claims made by third parties related to their failure to receive a notification from the service; and it includes exclusive remedies and a provision limiting liability for certain claims related to intellectual property claims, including any claims of infringement on intellectual property maintained outside of the United States.
 - e. The amount of written notice required to terminate the Agreement for cause has been set with respect to material breach and other misconduct as 10 days (instead of 5 for material breach, and previously unspecified for other misconduct).

SUBJECT: Approve an agreement with Everbridge Inc.

DATE: June 26, 2018

- f. Everbridge is allowed to suspend services to address emergency network repairs or threats or breaches of security, or any legal or regulatory prohibition related to provision of services.
 - g. Although the parties agree to mediate most claims, the parties agree that disputes regarding breach of confidentiality or intellectual property disputes are exempt from the mediation requirement.
 - h. Everbridge requested additional confidentiality provisions to protect their intellectual property, which have been incorporated into County's Confidentiality provisions. County also incorporated additional security provisions for County data.
 - i. Everbridge requested that its current Acceptable Use Policy be incorporated into the General Terms and Conditions as an attachment.
 - j. Everbridge requested the ability to assign the agreement to an entity through a merger or acquisition, but agreed that the entity must meet all state and federal requirements. County maintains right to terminate following notice of the assignment; however, it is unclear whether County would be able to recover prepaid sums if terminating under such conditions.
 - k. Because of the nature of the services (license for software), County removed references to Works for Hire and Work Product.
 - l. Everbridge requested additional clarification about their intellectual property rights and the limits of our relationship, outlined in a new paragraph.
 - m. Everbridge requested a new limitation of liability provision that would eliminate liability for either party to the other for loss of use, interruption of business, lost profits, costs or substitute service, or for any other indirect, special, incidental, punitive, or consequential damages, and also to limit its aggregate liability under the contract to the total amount paid within the last 12 months. However, neither of these limitations shall apply to the indemnification or insurance obligations included in the contract. This section also clarifies that the limitations of liability in Exhibit F should apply (including
2. Everbridge's License (Exhibit F):
- a. Disclaims most warranties related to the service (express, implied, statutory), including the warranties of merchantability or fitness for a particular purpose.
 - b. Includes representations and warranties by County that it will have a privacy policy and follow applicable privacy laws, and that communications should only be sent by authorized Users.
 - c. Limits Everbridge's liability for personal injury caused by failure of their service to deliver a message.
 - d. Limits Everbridge's liability for County's improper use of the Service.

SUBJECT: Approve an agreement with Everbridge Inc.

DATE: June 26, 2018

FISCAL IMPACT/FINANCING:

The annual cost of \$93,000 is 100% funded by a State Homeland Security Grant, which is administered locally by the Office of Emergency Services and will be included in the Proposed Fiscal Year 2018-19 budget. There is no Net County Cost to the General Fund.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The County's five-year strategic plan includes the Safety and Security initiative, with a goal of providing coordinated emergency preparedness, response, recovery and mitigation capabilities for both natural and man-made disasters. AlertTC provides local agencies with the ability to rapidly communicate with the public to provide critical information during times of emergency or disaster.

ADMINISTRATIVE SIGN-OFF:



Jason T. Britt
Agency Director

cc: County Administrative Office

Attachment(s) Agreement