



COUNTY OF SONOMA

575 ADMINISTRATION
DRIVE, ROOM 102A
SANTA ROSA, CA 95403

SUMMARY REPORT

Agenda Date: 1/4/2022

To: Sonoma County Board of Supervisors

Department or Agency Name(s): Sonoma County Sheriff's Office

Staff Name and Phone Number: Sharon Post, 565-1119

Vote Requirement: Majority

Supervisory District(s): All Supervisorial Districts

Title:

Electronic Monitoring Services Amendment and Annual Electronic Monitoring Program Policy Review

Recommended Action:

- 1) Authorize the Sheriff to execute Amendment Three with BI, Inc. to extend the term for up to two additional option years, through March 2026, and increase the not-to-exceed amount from \$50,000 to \$715,000 for the full five-year term.
- 2) Receive and complete the annual review of the administrative policy for the Sheriff's Electronic Monitoring Program (EMP) to comply with electronic monitoring program regulations as required by Penal Code 1203.016, 1203.017 and 1203.018.

Executive Summary:

The Sheriff's Electronic Monitoring Program (EMP) serves as a cost-effective detention alternative for Sonoma County to manage its jail population by lawfully offering a home detention alternative to low/moderate risk adult inmates in lieu of incarceration. The Sheriff's Office and Probation Department both offer electronic monitoring services, and contract with BI, Inc. (BI) under two separate Agreements. The Sheriff's Program has in the past operated as a participant-pay program. The Sheriff's Office recently eliminated fees for participants in order to comply with new legislative requirements contained in AB 1869. The Sheriff requests the authority to execute an Amendment with BI that will add two optional one-year extensions through 2026, and increase payments to BI that enable the Sheriff's Office to pay fees that were previously paid by participants, as required by AB 1896.

Additionally, the Sheriff is requesting the Board of Supervisors perform its annual review of the rules, regulations, and administrative policy of the Sheriff's Electronic Monitoring Program, allowing the Sheriff to lawfully provide the detention alternative to its incarcerated adult population. The Policy has been revised since the last review to reflect the changes needed as a result of AB 1869.

Discussion:

Background:

Penal Code 1203.016(b) states that “The board of supervisors, in consultation with the correctional administrator, may prescribe reasonable rules and regulations under which a home detention program may operate.” In 2011, as part of the County’s Community Corrections Partnership Plan, the Board of Supervisors authorized the Sheriff, as the correctional administrator, to offer a home detention program to low/moderate risk inmates in lieu of incarceration in the County’s adult detention facilities. The Sheriff’s Program, called the Electronic Monitoring Program (EMP), provides a cost effective detention alternative for offenders who might otherwise be incarcerated at much greater expense. The Program helps the offender population by keeping them in the community, allowing them to work, provide for their families, receive care from their own providers, and engage with their personal support systems. It also helps Sonoma County manage its adult jail population and provides enhanced public safety via continuous monitoring of offenders in the community. Inmate eligibility for participation in the Program is based primarily on a risk assessment tool. In calendar year 2020, 8,919 bed days (valued at approximately \$1.6 million) were saved as a result of the EMP. The Sheriff uses a contractor to provide EMP services.

The Sonoma County Probation Department also sponsors an electronic monitoring program for their clients, separate from the EMP managed by the Sheriff’s Office for incarcerated adults. Probation uses electronic monitoring to assist in supervising probationers and for defendants released from incarceration during the pre-adjudication (pre-trial) period.

Agreements:

Prior agreements with BI were jointly executed by the Sheriff’s Office and Probation Department in 2014 and 2017 as the types of services and fees were similar, although client populations were different. In 2020, a separate one-year Agreement was executed by the Sheriff’s Office in order to extend services until such time as a Request for Proposals (RFP) could be released. In collaboration with County Probation, a joint RFP was released in October 2020. BI, Inc. (BI), the County’s previous service provider, was selected again as the provider for both Probation and the Sheriff’s Office. The Board of Supervisors approved Probation’s three-year contract (plus two one-year options) with BI on May 11, 2021.

Given that the RFP did not result in any major changes to the terms and conditions of the Sheriff’s 2020 Agreement with BI, the Sheriff’s Office, in consultation with County Counsel, has prepared a Third Amendment to the Sheriff’s 2020 Agreement for the Board’s consideration in lieu of executing a new contract. BI has been and under the new Amendment will continue to provide the equipment, drug tests, and home visits needed to administer the Sheriff’s Electronic Monitoring Program. The Sheriff’s Office executed the First Amendment to the 2020 Agreement with BI in 2021 to extend the term and include the newly established participant pay rates. As a result of the 2020 RFP, the EMP rates charged by BI are the same for Probation and the Sheriff’s Office. The Second Amendment was executed to satisfy the requirements of AB 1869, switching the Sheriff’s EMP from participant pay to agency pay. The proposed Third Amendment will extend the term of the Agreement for up to two additional option years, through March 2026, and increase the not-to-exceed amount from \$50,000 to \$715,000 for the full five-year term (inclusive of option years). This extension will lineup the Sheriff’s Office Agreement expiration date with Probation’s Agreement and allow for a joint RFP in

2026.

Legislative Changes:

Fees for the Sheriff's Office EMP services have historically been paid directly to BI by Program participants who had the ability to pay; the Sheriff's Office paid for indigent participants who were unable to pay. Probation Department's EMP service fees were never paid for by participants, therefore no change was needed. Once signed into law, AB 1869 repealed the authority to collect many fees formerly imposed throughout the criminal justice system for the cost of administering services, including home detention programs. As a result of AB 1869, the Sheriff's Office executed the Second Amendment to the Agreement with BI effective October 1, 2021 to eliminate fees for all participants, changing the Program to 100% agency funded. Fees for Sheriff's incarcerated adult EMP services are now paid for by the Sheriff's Office and not by individual participants. The Second Amendment to the original BI Agreement was put in place to comply expeditiously with AB 1896 and allow time for the more complete Third Amendment to be presented to the Board.

Funding:

AB 1869 appropriated \$65 million annually for FY 21-22 through FY 25-26 to backfill revenue lost from the repeal of participant fees for service; however, the State's reimbursement system is not yet operational. The Sheriff's Office received limited-time, bridge funding (\$115,000 for FY 21-22) from the Sonoma County Community Corrections Partnership (CCP) to cover the lost fee revenue until such time as reimbursement is available from the State. If the proposed Third Amendment is approved, the Sheriff's Office will increase its budget to reflect the additional funding approved by the CCP during the Board's Mid-year Consolidated Budget Adjustments. Given the funding from CCP and eventual reimbursement from the State, the new payment structure with BI will have no impact on the General Fund. If funding from CCP or the State is discontinued, the Sheriff will either discontinue the Program or find an alternative funding source and return to the Board.

This Third Amendment increases the limit of the Agreement with BI from \$50,000 to a total amount not-to-exceed \$715,000, to pay Program fees through March 31, 2026. Estimates for payments are based on the fees collected by BI in past years, adjusted from the prior participant-pay rates to new lower agency-pay rates. Beginning in FY 22-23, the number of participants may increase to pre-pandemic levels of participation. The additional two-year options to extend will place the Sheriff's Office Agreement on the same expiration timeline as Probation's Agreement for services. This will allow for a collaborative RFP process in 2026.

Based on the Sheriff's Office estimated number of incarcerated adult participants, the following expenditures are projected through the new expiration date.

	FY 21-22 (partial year)	FY 22-23 (full year)	FY 23-24 (full year)	FY 24-25 (full year)	FY 25-26 (partial year)
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# of Participants	345	445	445	445	445
Estimated Annual Expenditures based on participants	\$115,000	\$155,445	\$155,445	\$155,445	\$116,584

Administrative Policy: The second requested action of this Board Item pertains to the annual requirement for the Board to review the Sheriff's Electronic Monitoring Program (EMP) Policy. Penal Codes 1203.016(d)(1), 1203.017(d)(1) , and 1203.018(e) state that "The rules and regulations and administrative policy of the program shall be written and reviewed on an annual basis by the county board of supervisors and the correctional administrator." The Sheriff has revised the EMP Policy since the Board's review in 2020, to reflect implementation of AB 1869's change in fee for services from participant-pay to agency-pay. Probation's electronic monitoring program is governed by different Penal Code sections (PC 1210.7 through 1210.16), and it does not require annual EMP policy review by the Board of Supervisors.

Strategic Plan:

This item directly support the County's Five-year Strategic Plan and is aligned with the following pillar, goal, and objective.

Pillar: Healthy and Safe Communities

Goal: Goal 5: Continue to invest in public safety so that residents and visitors feel safe in our community.

Objective: Objective 4: Expand detention alternatives with the goal of reducing the jail population, from pre-pandemic levels, by 15% at the end of 2022, while simultaneously reducing recidivism amongst the supervised offender population.

Prior Board Actions:

May 11, 2021 - Probation Electronic Monitoring Contract with BI approved as an outcome of the October 2020 RFP process.

October 6, 2020 - The Electronic Monitoring Program Policy was last reviewed and approved.

FISCAL SUMMARY

Expenditures	FY 21-22 Adopted	FY22-23 Projected	FY 23-24 Projected
Budgeted Expenses		\$155,445	\$155,445
Additional Appropriation Requested	\$115,000		
Total Expenditures	\$115,000	\$155,445	\$155,445

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Funding Sources			
General Fund/WA GF			
State/Federal	\$115,000	\$155,445	\$155,445
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources	\$115,000	\$155,445	\$155,445

Narrative Explanation of Fiscal Impacts:

There are no General Fund impacts for the BI Third Amendment, or EMP Policy review. Appropriations for the BI Third Amendment will be added in Mid-Year Consolidated Budget Adjustments which will include the 2011 Realignment as a limited-time bridge funding source, which was approved by the Community Corrections Partnership on October 25, 2021. AB 1869 State backfill is expected beginning in year two of the Amended Agreement. It is anticipated that AB 1869 State backfill funding will extend through the new term of the Agreement.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

1. Agreement for Electronic Monitoring Services including Amendments One, Two, and Three.
2. Detention Alternatives - Electronic Monitoring Program (EMP) 2021 Policy

Related Items "On File" with the Clerk of the Board:

N/A