



# Monterey County

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## Board Report

Legistar File Number: A 16-363

November 15, 2016

**Introduced:** 11/1/2016

**Version:** 1

**Current Status:** Agenda Ready

**Matter Type:** BoS Agreement

It is recommended that the Board of Supervisors:

- a. Accept non-standard contract provisions as recommended by the Public Defender;
- b. Authorize the Contracts Purchasing Officer to execute an Agreement with West Publishing Corporation for Westlaw Pro Government Plan Online Legal Research, for the period retroactive to November 1, 2016 through October 31, 2021, in the maximum amount of \$230,000.00;
- c. Authorize the Contracts Purchasing Officer and the Public Defender to sign and execute the appropriate documents and verifications when required; and
- d. Authorize the Contracts Purchasing Officer to issue purchase orders as needed pursuant to this Agreement over the period retroactive to November 1, 2016 through October 31, 2021.

### RECOMMENDATION:

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- c. Authorize the Contracts Purchasing Officer and the Public Defender to sign and execute the appropriate documents and verifications when required; and
- d. Authorize the Contracts Purchasing Officer to issue purchase orders as needed pursuant to this Agreement over the period retroactive to November 1, 2016 through October 31, 2021.

### SUMMARY:

It is requested that the Board authorize the Contracts Purchasing Officer to sign a non-standard Agreement with West Publishing Corporation, and to issue purchase orders as needed, in the aggregate amount not to exceed \$230,000.00, over the period of November 1, 2016 through October 31, 2021. The services provided are for a Westlaw PRO Government Plan for Online Legal Research that includes Primary Law, Key Cite, Legislative History, Statute and Regulation Versioning, State Analytical Collections, Forms, Law Reviews & Journals, and news.

### DISCUSSION:

The Westlaw Pro Government Plan Online Legal Research software/internet service will provide online legal research and writing assistance to the Public Defender's Office, in order to fulfill its legal duty to represent indigents charged with crimes in Monterey County. Westlaw PRO Government Plan for online legal research includes the primary constitutions, laws, and cases (published and unpublished) for all federal and state jurisdictions. The service also

includes the proprietary Key Cite reference system used to pinpoint legal research efforts. The service likewise includes the published legislative history for all federal and state jurisdictions. The service moreover provides the statute and regulation versioning for all federal and state jurisdictions. The service includes forms for all federal and state jurisdictions and has a proprietary forms builder program that self populates templates to increase the efficiency and accuracy of prepared and filed motions. The service likewise includes the proprietary Drafting Assistant program that integrates with the Public Defender's native word processing program and reviews, checks, and corrects citation and quotations in legal briefs. Finally, the service provides the proprietary Case Timeline program that builds a timeline of legally significant events in the case; this program is used by the Public Defender's Office for trial preparation and presentation.

The proposed Agreement is non-standard for the County. It adopts modifications to the County's standard agreement, set forth in Exhibit A, the Scope of Work, paragraph A.3. Additionally, the proposed agreement is based upon West Publishing Corporation's standard agreement, attached as Exhibit B, "Order Form."

This proposed agreement will provide the legal research and legal drafting tools described to the Public Defender from November 1, 2016, through October 31, 2021. The Public Defender negotiated a five-year contract to receive a lower rate.

OTHER AGENCY INVOLVEMENT:

The Agreement was not approved by County Counsel, due to the presence of the following non-standard and unacceptable terms/conditions in the Agreement: limited vendor liability, limited protection under insurance coverage, and restricted ability to exercise termination provisions. The modifications requested by the vendor are detailed in Exhibit A, paragraph A.3. In addition, County Counsel finds terms contained in the Vendor Order Form and Terms and Conditions section of the documents in Exhibit B, to be contrary to the standard contractual terms for the county, including but not limited to the vendor's ability to unilaterally change monthly charges, evergreen, month-to-month continuation of the agreement upon the end of the contract term, undisclosed charges, foreign venue, applicability of Minnesota rather than California law to contract disputes, unlimited vendor assignment of services, limitations on the type of and amount of damages available to the County in the event of contract breach, and "as-is" product with limited or no warranty for service performance, and therefore could not approve the agreement. Risk does not approve non-standard insurance provisions.

FINANCING:

Funding is available within the existing budget for the Public Defender, and future funding is anticipated to continue.

Prepared By: Donald E. Landis, Jr., Assistant Public Defender, Ext. 5651

Approved By: Frank Dice, Interim Public Defender, Ext. 5806

Attachments: Agreement with West Publishing Corporation, Westlaw Pro Government Plan

