



Monterey County

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Board Report

Legistar File Number: A 16-361

November 15, 2016

Introduced: 11/1/2016

Version: 1

Current Status: Agenda Ready

Matter Type: BoS Agreement

- 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 CLEAR Government Fraud Investigative Software, for the period retroactive to November 1, 2016 through October 31, 2019, in the maximum amount of \$24,000.00;
- 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 for the period retroactive to November 1, 2016 through October 31, 2019.

RECOMMENDATION:

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 CLEAR Government Fraud Investigative Software, for the period retroactive to November 1, 2016 through October 31, 2019, in the maximum amount of \$24,000.00;
- 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 for the period retroactive to November 1, 2016 through October 31, 2019.

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 \$24,000.00, over the period of November 1, 2016, through October 31, 2019. The services provided are for the CLEAR investigations advanced online software interface; to provide a dashboard interface, alerting capability, real time gateways, web analytics information; and to provide assistance with investigations by the Investigative Unit of the Public Defender in its mission to provide quality legal service to indigents charged with crimes in the County of Monterey.

DISCUSSION:

CLEAR forensic investigative software provides the following services to the Public Defender's Office, assisting in legal representation of indigents charged with crimes in Monterey County:

1. Real-time Gateways: CLEAR includes several live gateways that provide real-time access to data, helping to ensure that users can obtain the most up-to-date information available. CLEAR's real-time access includes gateways to credit header data, vehicle registration data, and phone data - including cell phones.
2. Locator data: Live gateways, mentioned above, are valuable for obtaining the most

current address available, but other types of data can be especially useful in this regard too. Utility records can be particularly valuable for obtaining current addresses. The utility data is updated daily and is included in both the Person Search and Phone Search. In addition to the utility data source, utility hookup records are also contained in the New Movers data set.

3. Web Analytics: CLEAR offers the Web Analytics add-on option as a federated data source. This search feature provides access to both deep-Web and surface-Web content from one search interface.
4. Credit Headers: Regularly updated credit information filed from two of the major credit bureaus are included.
5. Other capabilities include: Utility Records / Driver License Data / Death Filings and other relevant capabilities.

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.5. Additionally, the proposed agreement is based upon the West Publishing Corporation's standard agreement, attached as Exhibit B, "Order Form."

This proposed agreement provides these investigative software services to the Public Defender from November 1, 2016, through October 31, 2019. The Public Defender negotiated a three-year contract to receive a lower rate. This Board previously authorized the District Attorney to contract for the same CLEAR services from West Publishing on May 10, 2016. As with that contract, WEST Publishing requires the county to execute West Publishing documents, contained in Exhibit B, as well as some changes to the standard contractual language, which are noted below and are in Exhibit A, the Scope of Work.

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.5. 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, and "as -is" product with limited or no warranty for service performance, and limitations on the type of and amount of damages available to the County in the event of contract breach, 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, CLEAR Government Fraud
Investigative Software