



Monterey County

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Board Report

Legistar File Number: A 15-208

June 23, 2015

Introduced: 6/10/2015

Current Status: Agenda Ready

Version: 1

Matter Type: BoS Agreement

- a. Approve and authorize the Director of Information Technology to execute an IBM Client Relationship Agreement and Master Services Attachment for ServiceElite Agreement and associated agreement schedules, for software licensing/support and hardware maintenance/support, in the aggregate amount of \$900,000, not to exceed \$300,000 per fiscal year, effective July 1, 2015;
- b. Accept non-standard language in the Agreement provided by the vendor as recommended by the Director of Information Technology; and
- c. Authorize the Contracts/Purchasing Officer to issue purchase orders on an as-needed basis over the next three fiscal years, as recommended by the Director of Information Technology.

RECOMMENDATIONS:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Director of Information Technology to execute an IBM Client Relationship Agreement and Master Services Attachment for ServiceElite Agreement and associated agreement schedules, for software licensing/support and hardware maintenance/support, in the aggregate amount of \$900,000, not to exceed \$300,000 per fiscal year, effective July 1, 2015;
- b. Accept non-standard language in the Agreement provided by the vendor as recommended by the Director of Information Technology; and
- c. Authorize the Contracts/Purchasing Officer to issue purchase orders on an as-needed basis over the next three fiscal years, as recommended by the Director of Information Technology.

SUMMARY/DISCUSSION:

IBM, Inc., is a vendor that has provided software licensing/support and hardware maintenance/support to the County of Monterey since 1990. This support has been provided for products purchased directly from IBM, Inc., or through a third party vendor.

The proposed Agreement allows the County of Monterey the flexibility to determine the level of services and support needed and expenses occur on an "as incurred" annual basis. Currently, given the amount of IBM equipment held by the County and the various levels of service required, the cost of this Agreement for FY 2014-2015 is approximately \$200,000. The not-to-exceed authority requested allows for flexibility if additional equipment requiring this support and maintenance is acquired during the year.

The Information Technology Department (ITD) receives a yearly list of IBM software and/or hardware to be covered under the service agreement and will have the option to remove items from the list if software/hardware was removed from inventory and no longer needed by County departments. The County will only pay support/maintenance cost for software/hardware which

are deployed and will not be required to enter into a new agreement for changes to the software/hardware inventory even if purchased through a third party vendor.

The approval of this Agreement will allow ITD to continue to facilitate the critical support needed for IBM hardware such as servers which support critical county-wide services such as email, voicemail, security, backup and recovery, network management and file sharing. Additionally this Agreement provides for support of department-specific equipment used County-wide to provide constituent services such as the Clerk/Recorder ISeries system, Computer Aided Dispatch, and other law enforcement applications, as well as highly-available central data storage systems used to store departmental data.,

The proposed Agreement is "non-standard" for the County, but is based upon a standard agreement that IBM uses throughout the State and nation, including with other governmental bodies. Based upon the County's past experience with this well-established company, and the fact that the Agreement allows the County to elect not to renew the Agreement with one month written notice, ITD is recommending approval of the Agreement.

OTHER AGENCY INVOLVEMENT:

County Counsel cannot approve due to the following non-standard contract provisions: County responsibility for IBM costs in the event of early termination by IBM; time limitations on warranty to one year; substantive limitations on warranty disclaiming IBM responsibility; IBM's authority to unilaterally change charges and contract terms on three months' notice; limitation of IBM's liability to 12 months charges; limitations of the statute of limitations to two years; disclaimer of various economic and business interruption damages; limitations on IBM indemnity obligations; application of New York law, not California law to the agreement; absence of insurance; and automatic renewal provisions. Risk does not approve non-standard language regarding insurance and indemnification.

FINANCING:

The funds for payment of this Agreement have been included in the FY 2015-16 Recommended Budget for the Information Technology Department, ITD 1930, Unit 8435, Appropriations Unit INF002. Transactions relating to future fiscal years will be included in each respective Recommended Budget. Should funding be reduced and/or terminated, the County may terminate this agreement by giving thirty (30) days written notice of such action to the Contractor.

Prepared by: Liz Crooke, 755-5108

Approved by:
Dianah Neff, Director of Information Technology, 759-6923

Attachments: Master Services Agreement
Client Relationship Agreement