



Monterey County

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Board Report

Legistar File Number: A 16-362

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 West Complete Library, for the period retroactive to November 1, 2016 through October 31, 2019, in the maximum amount of \$4,000.00;
- 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, 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 West Complete Library, for the period retroactive to November 1, 2016 through October 31, 2019, in the maximum amount of \$4,000.00;
- 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, 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 \$4,000.00, over the period of November 1, 2016 through October 31, 2019. The services provided are for a West Complete Library for the regular updating of West Publications under subscription, including all published updates and new bound volumes.

DISCUSSION:

West Complete Library provides the below listed West Publications currently under subscription, including all published updates and new bound volumes, to assist Public Defender's Office in the legal representation of indigents charged with crimes in Monterey County:

1. Central Local Court Rules V.IIIC SUB (1 copy)
2. Sex Crimes: California Law and Procedures SUB (1 copy)
3. CA Drunk Driving Defense SUB (1 copy)
4. Supreme Court Reporter SUB (1 copy)

5. CA Court Rules State and Federal District Court and Federal Bankruptcy Court Pamphlets V.1 to IIA SUB (1 copy)
6. CA Desktop Juvenile Laws and Rules SUB (2 copies)
7. CA Jury Instructions CA Criminal SUB (2 copies)
8. CA Criminal Jury Instructions Companion Handbook Pamphlet SUB (1 copy)

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 the West Publishing Corporation's standard agreement, attached as Exhibit B, "Order Form."

This proposed agreement will ensure the regular updating of West Publications under subscription, including all published updates and new bound volumes, for the Public Defender from November 1, 2016, through October 31, 2019. The Public Defender negotiated a three-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 provisions. Risk does not approve non-standard 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, West Complete Library