



Legislation Details (With Board Report)

File #:	16-1181	Name:	MCFL 's Sales Agreement with AMS, Net
Type:	General Agenda Item	Status:	Passed
File created:	10/11/2016	In control:	Board of Supervisors
On agenda:	12/13/2016	Final action:	12/13/2016

Title:

- a. Ratify the federal E-Rate application submitted by Monterey County Free Libraries, dated July 21, 2016, to fund upgrade of public wireless internet connections available at library branches in order to meet recommended California State Library minimum connectivity standards and authorize acceptance of the federal E-Rate subsidy, if it is awarded;
- b. Ratify the Sales Order Agreement, E-Rate, with AMS.NET, Inc., and Amendment No. 1 to this Agreement, executed by Monterey County Free Libraries on July 18, 2016, for E-Rate eligible multi-service networking equipment and services, to implement the upgrade of public wireless internet connections at library branches, in an amount not to exceed \$185,000.00, for a term retroactive to July 18, 2016 through June 31, 2017;
- c. Approve Amendment No. 2 to the Sales Order Agreement with AMS.NET, Inc., in order to fully state the rights and obligations of the parties;
- d. Authorize the Director of Monterey County Free Libraries to sign Amendment No. 2 to the Sales Order Agreement with AMS.NET, Inc; and
- e. Authorize the Director of Monterey County Free Libraries to purchase critical equipment and professional services prior to E-Rate funding authorization, pursuant to the AMS, Net, Inc. Sales Order Agreement, as amended, up to the full value of the agreement and to seek E-Rate discount reimbursements, assuming funding discounts are authorized by the federal E-Rate program.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. MCFL FCC form 471 Application Summary, 3. AMS Monterey County Free Libraries- Amended Sales Order Agreement, 4. Amendment 2 to AMS Net Sales Order Agreement signed by AMS with, 5. Completed Board Order

Date	Ver.	Action By	Action	Result
12/13/2016	1	Board of Supervisors	approved	

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discounts are authorized by the federal E-Rate program.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Ratify the federal E-Rate application submitted by Monterey County Free Libraries, dated July 21, 2016, to fund upgrade of public wireless internet connections available at library branches in order to meet recommended California State Library minimum connectivity standards and authorize acceptance of the federal E-Rate subsidy, if it is awarded.
- b. Ratify the Sales Order Agreement with AMS.NET, Inc., and Amendment No. 1 to this Sales Order Agreement, executed by Monterey County Free Libraries on July 18, 2016, for E-Rate eligible multi-service networking equipment and services, to implement the upgrade of public wireless internet connections at library branches, in an amount not to exceed \$185,000.00, for a term retroactive to July 18, 2016 through June 31, 2017.
- c. Approve Amendment No. 2 to the Sales Order Agreement with AMS.NET, Inc., in order to fully state the rights and obligations of the parties.
- d. Authorize the Director of Monterey County Free Libraries to sign Amendment No. 2 to the Sales Order Agreement with AMS.NET, Inc.
- e. Authorize the Director of Monterey County Free Libraries to purchase critical equipment and professional services prior to E-Rate funding authorization, pursuant to the AMS, Net, Inc. Sales Order Agreement, as amended, up to the full value of the agreement and to seek E-Rate discount reimbursements, assuming funding discounts are authorized by the federal E-Rate program.

SUMMARY/DISCUSSION:

The E-Rate program, operated by the Federal Communications Commission, is designed to assist libraries and educational institutions with providing the public and students with affordable telecommunications and internet access services. Under the E-Rate program, libraries and educational institutions can apply for and receive subsidies to purchase equipment and professional services to improve these services.

E-Rate Application:

For the past eighteen years, the Monterey County Free Libraries (MCFL) has successfully applied for and received category 1 federal E-Rate discounts on library telecommunication services. This year MCFL applied for category 2 E-Rate discounts on multiservice networking equipment and services, which includes discounts on Wi-Fi equipment, Wi-Fi licenses, aggregation routers, and cabling and installation for the MCFL multi-branch system. The MCFL seeks to upgrade its existing public wireless internet access to meet the minimum connectivity standards recommended by the California State Library. If successful, the federal E-Rate program will pay for 85% of the cost of the upgrade and the County's cost will be limited to 15%.

Because of time constraints, the E-Rate application was submitted without prior Board approval; the Board is now requested to ratify the MCFL's submission of its application for E-Rate discounts.

Vendor Selection:

Through the formal E-Rate process, MCFL requested bid proposals from technology vendors to (1) upgrade the Wi-Fi infrastructure at all branch libraries and (2) upgrade the infrastructure of the County's Information Technology Department (ITD) to support those services. MCFL's request for proposals was posted, as required by the E-Rate program, to the federal USAC website to allow open and competitive bid submissions for a minimum of 28 days. MCFL received and evaluated seven bids for category 2 E-Rate services, using the E-

Rate recommended bid evaluation matrix.

AMS.NET, Inc. is the only vendor that met all of the bidding requirements, including meeting Monterey County ITD standards and prevailing wage standards and documentation for public works projects. Monterey County Information Technology Department reviewed and approved the AMS.NET, Inc. bid as to equipment, services and effective integration into the County technology plan.

Agreement with AMS.NET, Inc.:

Under the terms of the E-Rate program, MCFL was required to sign a Sales Agreement with the winning bidder by July 18, 2016 to qualify for discounts during the funding year of July 1, 2016 through June 30, 2017. Per E-Rate rules, MCFL filed a 471 Form specifying AMS.net as the awarded bidder. Again, due to time constraints, on July 18, 2016, the Assistant Director of the MCFL signed a Sales Order Agreement with AMS.NET, Inc., including an amendment which deleted County liability for payment penalties and specified that each stage of the wireless upgrade project requires prior written MCFL authorization.

The Board is now asked to ratify the Sales Order Agreement, and amendment, with AMS.NET, Inc. Although the agreement was signed in July 2016, MCFL is not obligated to make purchases pursuant to this agreement, and has not purchased equipment or services based upon the agreement, to date, pending Board of Supervisors' approval.

Amendment to Agreement with AMS.NET, Inc.:

AMS.NET, Inc. and MCFL have agreed upon an expanded Scope of Work and Project Cost Summary that more fully describes the rights and obligations of the parties. The Board is asked to approve the amendment and to authorize the Director of MCFL to execute it.

Purchase of Equipment/Services Pending E-Rate Approval/Reimbursements:

Due to the volume of E-Rate applications received, funding commitment decision letters are issued in cycles well beyond the end of the authorized funding year. It is very rare that a properly submitted E-Rate application is denied funding. It is common practice for applicants to purchase the E-Rate eligible services documented in their certified 471 Form before funding approval. E-Rate requires applicants to verify they have funds available to cover undiscounted funding requests if funding is denied, or if the E-Rate program has exhausted available funds. Approved discounts are reimbursed to the applicant as long as they were purchased within the eligible funding year and not before the signed contract date.

With the Board of Supervisors' approval, MCFL would like to purchase critical services and equipment pursuant to the agreement with AMS.NET, Inc. before receiving an E-Rate funding decision. The urgency in making these purchases is meeting MCFL patron demands for improved Wi-Fi services and meeting the California State Library benchmarks of 1 gigabit internet connectivity at all public library branches.

Once MCFL is notified of E-Rate funding approval, MCFL will seek discount reimbursements. Once MCFLs E-Rate funding is approved, AMS.NET, Inc. will bill MCFL for purchases made after that date and within the funding year at the E-Rate discounted rate of 15% and will submit invoices to the E-Rate program administrator for direct reimbursement of the remaining 85%.

In the unlikely case that E-Rate discounts are not approved, MCFL has budgeted funds to cover critical purchases up to the full value of the contract, within the E-Rate funding period, July 18, 2016 through June 31, 2017.

Accordingly, the Board of Supervisors is asked to authorize the Director of MCFL to purchase professional

services and equipment pursuant to the AMS.NET Sales Order Agreement, prior to decision on its application for E-Rate subsidies. The Board of Supervisors is further requested to authorize the Director of MCFL to seek E-Rate discount reimbursements, assuming funding discounts are authorized by the E-Rate program.

In summary, due to the complexity of the E-Rate process, MCFL is asking for ratification on steps taken, as outlined above, and authorization to proceed with the wireless upgrade pending E-Rate approval. It will be better prepared to meet BOS approval requirements in the next E-Rate application process. The fiscal and service benefits available to the public through the E-Rate Program encouraged MCFL to seek E-Rate funding this year to best of its ability.

OTHER AGENCY INVOLVEMENT:

The proposed Sales Order Agreement and amendment executed by the Assistant Director of MCFL has been reviewed by County Counsel.

County Counsel cannot approve this Agreement due to the following nonstandard terms: limitations on vendor liability for delays in installation; lack of standard insurance and indemnification provisions; warranty on equipment limited to thirty days; limitations on type of damages and amount of damages available to the County in the event of the vendor's breach of contract; attorneys' fees provisions; venue in Alameda County rather than Monterey County; and vendor's right to assign the agreement.

Risk does not approve agreements which lack standard insurance and indemnification provisions. The Information Technology Department was consulted regarding this nonstandard computer/technology project and confirms compatibility with County technology.

County Counsel has reviewed the proposed amendment No. 2 to the AMS.NET, Inc. Sales Order Agreement as to form.

FINANCING:

The recommended Sales Agreement provides for an amount not to exceed \$185,000.00 for the equipment and scope of work described in Exhibit A to proposed Amendment No. 2. Upon approval, the sum representing the total project cost will be available to MCFL to pay AMS, Net, Inc. as equipment is needed and work is completed. MCFL has budgeted funds to cover critical purchases up to the full value of the contract, within the E-Rate funding period, July 18, 2016 through June 31, 2017.

Once MCFL is notified of funding approval, MCFL will seek discount reimbursements from USAC for purchases made prior to funding approval. Once MCFL's E-Rate funding is approved, subsequent purchases will be invoiced to MCFL by AMS.Net at the discounted rate and AMS.Net will follow the required E-Rate process of submitting vendor invoices to the E-Rate program administrator for direct vendor reimbursement.

Funds have been included in the Library Budget Unit 6110 for FY 16-17 to cover the project cost. There is no additional cost to the County General Fund associated with this recommendation.

Prepared by: Jacqueline C. Bleisch, Administrative Services Officer, (831) 883-7569

Approved by: Jayanti Addleman, Library Director, (831)883-7566

Attachments:

Monterey County Free Libraries Application for E-Rate Subsidies, FCC Form 471
AMS.NET, Inc. Sales Order Agreement, E-Rate, and amendment dated July 18, 2016

Amendment No. 2 to AMS.NET, Inc. Sales Order Agreement, E-Rate, with Exhibits A and B