



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: 12-1159, **Version:** 1

- a. Approve and authorize the Contracts/Purchasing Officer to execute on behalf of the County of Monterey non-standard software licensing, software maintenance/support, and software subscription Agreements up to \$100,000, at the recommendation of the Director of Information Technology, where the Agreements do not require on-site services by the vendor and after consultation with Risk Management and the Office of the County Counsel;
- b. Accept non-standard language in the Agreements issued by the vendors, after consultation with Risk Management and the Office of the County Counsel; and
- c. Authorize the Contracts/Purchasing Officer to issue purchase orders as recommended by the Director of Information Technology for the software licensing, software maintenance/ support, and software subscriptions where the annual Agreement amount does not exceed \$100,000.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Approve and authorize the Contracts/Purchasing Officer to execute on behalf of the County of Monterey non-standard software licensing, software maintenance/support, and software subscription Agreements up to \$100,000, at the recommendation of the Director of Information Technology where the Agreements do not require on-site services by the vendor and after consultation with Risk Management and the Office of the County Counsel;
- b. Accept non-standard language in the Agreements issued by the vendors, after consultation with Risk Management and the Office of the County Counsel; and
- c. Authorize the Contracts/Purchasing Officer to issue purchase orders as recommended by the Director of Information Technology for the software licensing, software maintenance/ support, and software subscriptions where the annual Agreement amount does not exceed \$100,000.

SUMMARY:

It is requested that the Board of Supervisors approve and authorize the Contracts/Purchasing Officer to execute on behalf of the County of Monterey software licensing, software maintenance/support, and software subscription agreements (“Agreements”) at the recommendation of the Director of Information Technology where the Agreements do not require on-site services, implementation, and/or labor by the software company. These Agreements include: purchase of licenses, use of licenses, renewal of licenses, or receipt of updates to the licenses.

DISCUSSION:

Monterey County Information Technology (ITD) currently manages multiple Agreements for software licensing, annual subscriptions, and software maintenance/support. For the software licenses currently being managed by ITD, the vendors require the use of their own proprietary Agreement which is unique to the software company and to the interests of the software manufacturer who will define the specifications of the use of their product. The intent of these Agreements is to ensure that the County does not make unauthorized duplications, deploy the software on more devices than the licensing allows, or make changes to the source code which may not be allowable under the terms and conditions of their licensing. The County of Monterey owns or manages the device and the data for which these licensing, support or subscription agreements are

prepared. The licensing, yearly subscriptions, and maintenance/support of the software provide the County with updates, fixes to software issues, and other software support as needed. These support functions are an absolutely critical business need to maintain the viable use of the software as needed by the County departments.

Due to the unique nature of the Agreements or terms/conditions of the licensing renewals, subscriptions, and maintenance/support, the vendors do not always require an Agreement that is mutually agreed upon with signatures from both parties. Some of the annual licensing, subscriptions, and maintenance/support are not negotiable but merely accompany a notification on the terms of use. One such example of the non-negotiable terms and conditions is the yearly subscription to WhatsUpGold, which is a network monitoring software application utilized by ITD. The payment of the yearly subscription fee is an acceptance of the terms/conditions of use and deployment of the software which is industry standard and has been an acceptable business practice by the County in the past.

Many of the individual yearly Agreements for licensing, support or subscriptions are well below the \$100,000 threshold required for Board approval. Granting the requested authority would allow these Agreements to be processed expeditiously yet still allow for appropriate review by ITD, Purchasing, Risk and County Counsel. It is the intent of the Director of ITD to provide insight to the Board regarding such non-standard Agreements in an effort to reduce the administrative time necessary in bringing these approval requests individually before the Board with the same explanation of the licensing terms each time.

OTHER AGENCY INVOLVEMENT:

County Counsel, Auditor-Controller, Contracts/Purchasing and Risk Management have been consulted and concur with the recommendation of the Director of Information Technology.

FINANCING:

The funds for the payment of the software licensing, maintenance/support, and subscriptions have been included in the FY 2012-13 Approved Budget for the Information Technology Department, ITD 1930, Unit 8137, Appropriations Unit INF002. Transactions relating to future fiscal years will be included in each respective Recommended Budget, and it is acknowledged that it is incumbent upon the Information Technology Department to ensure that each Agreement proposed for approval pursuant to this process is within each respective approved Budget.

Prepared by: Sarah House, Management Analyst, 755-5108

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