



Board Agenda Item 31

DATE: June 18, 2019

TO: Board of Supervisors

SUBMITTED BY: Margaret Mims, Sheriff-Coroner-Public Administrator

SUBJECT: Retroactive Agreement with Touch Legal, Inc. to provide Law Library Kiosks and Research Materials

RECOMMENDED ACTION(S):

- 1. Make a finding that it is the best interest of the County to waive the competitive bid process consistent with Administrative Policy No. 34 for unusual or extraordinary circumstances for the lease of ten Law Library kiosks and LexisNexis legal research materials and publications from Touch Legal, Inc. for the Adult Detention Facilities; and**
- 2. Approve and authorize the Chairman to execute a retroactive sole source Agreement with Touch Legal, Inc., to provide Law Library kiosks and LexisNexis legal research materials and publications, effective April 1, 2019 through March 31, 2023, which includes a three year base contract and two optional one-year extensions, total not to exceed \$430,519.**

There is no additional Net County Cost associated with these actions, which request a waiver of the competitive bid process to establish a five-year sole source agreement with Touch Legal, Inc. Approval of the agreement will provide inmate access to Law Library kiosks and LexisNexis legal research materials and publications and content for the Law library at the County's Adult Detention Facilities. This item is countywide.

ALTERNATIVE ACTION(S):

There are no viable alternative actions. Touch Legal, Inc. is the only vendor that provides this service. The Superior Court of California, County of Fresno ruled on January 8, 2013 that the Fresno County jail's legal research system must be offered via an electronic kiosk research system, and ordered a certain amount of kiosks be provided on each floor of the jail.

SUSPENSION OF COMPETITION/SOLE SOURCE CONTRACT:

The Department requests the Board to waive the competitive bidding process consistent with Administrative Policy No. 34, as Touch Legal, Inc. is the only vendor that provides an autonomous computer system designed for installation in a correctional setting, and contracts with LexisNexis for the provision of the California Prison Solutions software system. Additionally, Touch Legal, Inc. and LexisNexis are the only two entities who provide an electronic kiosk research system that contains approximately eighty-nine sources of information from various legal authorities for the Jail's legal research system. Purchasing concurs with the Department's request to waive the competitive bidding process.

RETROACTIVE AGREEMENT:

This agreement is retroactive due to lengthy negotiations with the vendor. The agreement was finalized and received from the vendor on June 4, 2019, and is being brought to your Board on the first available Board date.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The yearly lease cost for ten kiosks and content is \$86,103.84, not to exceed \$430,519 for the five year term, and will be paid using the Inmate Welfare Fund Org 31114008. Leasing includes complete technical support and equipment replacement at no additional cost. Appropriations and estimated revenues for this agreement are included in the Sheriff-Coroner-Public Administrator's Office FY 2018-19 Adopted Budget for Org 3111 and will be included in future budget requests.

DISCUSSION:

Penal Code section 4025 allows the Sheriff's Office to establish and maintain an Inmate Welfare Fund. Monies deposited into this Fund include commissions from commissary sales and the usage of pay phones by inmates. Monies from the Fund are expended by the Sheriff for the benefit, education, and welfare of the inmates confined within the jail. Monies may also be used for the maintenance of the jail which includes, but is not limited to, salaries and benefits of personnel used in the inmate programs that benefit inmates, such as drug and alcohol treatment, library, accounting, and other programs deemed appropriate by the Sheriff's Office.

The traditional book based law library phased out in May of 2012 after your Board approved providing law library kiosks eliminating the expense of high maintenance traditional book based law libraries. On May 8, 2012, the County entered into Agreement No. 12-197 with Touch Legal, Inc. to provide six kiosks, which are stand-alone autonomous computer systems equipped with a pre-installed searchable law library.

A challenge was raised as to the constitutionality of the proposed electronic research system and whether the kiosk system satisfied the constitutional right, if any, of a pro per defendant's access to a law library. On January 8, 2013, the Superior Court of California, County of Fresno, ruled that the kiosk system satisfied those rights, and the final order detailed the number of kiosks required on each floor. In addition, the order contained a provision that the electronic kiosks contain approximately eighty nine sources of information from various legal authorities for legal research within the Fresno County Jail.

With the re-opening of the three closed jail floors (the first floor was re-opened on October 1, 2011, the second floor on September 1, 2012, and the third floor on January 1, 2013), your Board approved Amendment I to Agreement No. 12-197 in May 2013 to add three additional kiosks for a total of nine. The recommended agreement before your Board includes an additional kiosk for a total of ten kiosks. The additional kiosk will give the Department the flexibility to replace a kiosk at any time should one break down in order to stay in compliance with the Court's ruling.

On June 7, 2016, your Board approved Agreement No. 16-288 with Touch Legal, Inc. to provide Law Library kiosks and research materials as a sole source vendor, effective April 1, 2016 through March 31, 2019. The recommended agreement will continue the services currently provided by Touch Legal for up to five additional years and increase the number of kiosks by one.

REFERENCE MATERIAL:

BAI # 23, June 7, 2016
BAI # 33, May 7, 2013
BAI # 30, April 23, 2013
BAI # 38, May 8, 2012

ATTACHMENTS INCLUDED AND/OR ON FILE:

Sole Source Acquisition Request Form
On file with Clerk - Agreement with Touch Legal, Inc.

CAO ANALYST:

Jeannie Z. Figueroa