



## Legislation Details (With Text)

**File #:** 11-0058      **Version:** 8

**Type:** Agenda Item      **Status:** Approved

**File created:** 1/11/2011      **In control:** Board of Supervisors

**On agenda:** 7/18/2017      **Final action:** 7/18/2017

**Title:** District Attorney recommending the Board approve and authorize the continuation of perpetual agreements and software licenses with the following:

- 1) Department of Justice, Agreement 01-098-01(139-S0611), for laboratory analysis at an estimated annual amount of \$60,000;
- 2) Accurint, Agreement 581-S1210, to conduct public and commercial database searches for attorneys and investigators, at an estimated annual amount of \$10,080;
- 3) Constellation Justice Systems, Agreement 317-S0111 for case tracking, document production, scheduling, management and operational reporting, legal support and research tracking, as well as victim/witness services for the annual not-to-exceed amount of \$100,000;
- 4) Lexipol, LLC, Agreement 043-S1611, authorizing the Chair to execute Amendment II for policy manual update guidance based on the latest changes in federal and state statutes, regulations, best practices and case law for the annual not-to-exceed amount of \$2,750; and
- 5) Approve and authorize the District Attorney to execute Agreement 067-S1811 with TransUnion Risk and Alternative Data Solutions, Inc. for a TLOXP access subscription for the purpose of investigative research in the estimated annual amount of \$1,800.

FUNDING: General Fund.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 8A - Agmt 043-S1611, Amd II - Lexipol, LLC 7/18/17, 2. 8B - Agmt 043-S1611, Amd II - Blue Route (DisApproved by County Counsel) 7-18-17, 3. 8C - Agmt #067-S1811 - TransUnion 7/18/17, 4. 8D - Agmt #067-S1811 - TransUnion - Approved Blue Route 7/18/17, 5. Executed Agreement 043-S1611, 6. 7A - Lexipol LLC Amendment I 6-7-16, 7. Executed Amendment to 043-S1611 (6-7-16), 8. A - Accurint 1/25/11, 9. B - Constellation Justice Systems 1/25/11, 10. C - Department of Justice 1/25/11, 11. D - Lexipol 1/25/11

Date	Ver.	Action By	Action	Result
7/18/2017	8	Board of Supervisors	Approved	Pass
6/7/2016	7	Board of Supervisors	Approved	Pass
7/14/2015	6	Board of Supervisors	Approved	Pass
1/6/2015	5	Board of Supervisors	Approved	Pass
12/10/2013	4	Board of Supervisors	Approved	Pass
2/5/2013	3	Board of Supervisors	Approved	Pass
1/24/2012	2	Board of Supervisors	Approved	Pass
1/25/2011	1	Board of Supervisors	Approved	Pass

District Attorney recommending the Board approve and authorize the continuation of perpetual agreements and software licenses with the following:

- 1) Department of Justice, Agreement 01-098-01(139-S0611), for laboratory analysis at an estimated annual amount of \$60,000;

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**FUNDING:** General Fund.

### **DEPARTMENT RECOMMENDATION**

The District Attorney recommends the approval and continuation of the listed agreements through FY 2017/18 as each perpetual agreement is necessary to effectively investigate and prosecute matters under the Law.

### **DISCUSSION / BACKGROUND**

In accordance with Board Policy Number C-17, departments are required to obtain authorization from the Board of Supervisors to utilize any contract that does not have a stated contract term on an annual basis. The District Attorney's Office has Board-approved contracts with Accurant, the Department of Justice, Constellation Justice Systems, and Lexipol which do not have a stated contract term and is recommending the Board authorize the continued use of these agreements.

**Department of Justice** - Since March 2005, the District Attorney's Office has contracted with the Department of Justice who provides laboratory analysis of blood and urine samples for alcohol, a breath alcohol testing program, training and retraining of staff, and other administrative and logistical support of field breath alcohol tests. The cost of services is \$35 per subject tested, and the District Attorney's Office estimates the total annual cost of \$35,000.

**Accurant**- The District Attorney's Office has contracted with Accurant beginning in November, 2008, allowing ten staff to conduct public and commercial data base searches for attorney's and investigators, at an annual cost of \$10,080 (\$840/month).

**Constellation Justice Systems** - The District Attorney's Office has contracted with Constellation Justice Systems who provides a perpetual, non-transferable and non-exclusive license to the Damion system which is a comprehensive system that incorporates case tracking, document production, scheduling, management and operational reporting, legal support and research tracking, as well as victim/witness services since January 2003, with an annual not-to-exceed amount of \$100,000/year.

**Lexipol, LLC** - The District Attorney's Office has contracted with Lexipol since June 2008 to provide updates to the District Attorney's policy manual that was previously developed by Lexipol. Services include urgent updates to change policy as a result of precedent setting court decisions, urgent legislation or extraordinary incidents in the field, changes and updates the District Attorney wishes to make throughout the year, and Lexipol's recommended changes and updates based on case law, legislation and legal experience. Lexipol has increased their fees from \$2,500.00 per year to

\$2,750.00 per year effective June 1, 2017. The maximum annual cost for these services is \$2,750.

In June 2017, it was determined Agreement 043-S1611 provided a two-year guarantee on pricing (\$1,950/year) from June 1, 2015 - May 31, 2017. In April 2016, the contract was amended to an annual rate of \$2,500/year effective June 1, 2016. After review of the Agreement and Amendment I with the vendor, it has been determined that Amendment I was executed in error and the year 2 rate was overpaid by \$550. The vendor is applying a credit of \$550 to the year 3 rate, reducing the FY 17/18 payment to \$2,200.

County Counsel has disapproved Amendment II to Agreement 043-S1611 due to the copyright language included in Articles V - Copyright; Derivative Works; Contractor Ownership and Article VI - Ownership of Rights. County Counsel's opinion is that the information provided by Contractor is based on information in existing law that is not subject to copyright and there is no reason to conclude that use of the information involving existing law and documents prepared by the County in relation to existing law, are a derivative work that should become the property of the Contractor.

Through negotiations with the contractor, the District Attorney's Office added language that differentiates County content from Contractor content which would be considered a Derivative work. In Article V Ownership of Rights, the policies that are drafted by the District Attorney's Office are protected as stated: "County specific content created by County contained within the Policy Manual (s) will remain property of County."

Furthermore, Lexipol provides an essential service to the District Attorney's Office, and the District Attorney's Office does not believe its use of the service unduly exposes the County to copyright law litigation since the information is used strictly for the County's own internal purposes.

Lastly, the District Attorney's Office will not be prohibited from providing a copy of the Policy Manual (s) for review by any party with lawful reason to do so or from disclosing any policies contained within the Policy Manual(s) pursuant to and authorized by a request under the Public Records Act, pursuant to court order or any other lawful process; provided that the material bears Lexipol's copyright notice, which the District Attorney's Office is comfortable in complying with.

**TransUnion Risk and Alternative Data Solutions, Inc.** - The District Attorney Office contracted with TransUnion under Agreement 370-S1510, from January 15, 2015 - July 1, 2017 for a TLOXP access subscription for the purpose of investigative research in the estimated annual amount of \$1,320.

Agreement 043-S1611 is effective July 1, 2017, replaces Agreement 370-S1510 and allows for the continuation of the TLOXP access subscription. Under Agreement 043-S1611, TransUnion has increased their monthly fee from \$110/month to \$150/month, not including a Transactional Overage Pricing. The estimated annual amount of Agreement 043-S1611 is \$1,900.

## **ALTERNATIVES**

If the Board does not approve the continued use of these agreements, the District Attorney's Office would be unable to perform the related services that are integral to the investigation and prosecution of criminal cases.

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

N/A

**CAO RECOMMENDATION**

Approve as recommended.

**FINANCIAL IMPACT**

There is no change to net county cost. Sufficient appropriations are included in the District Attorney's Fiscal Year 2017/18 budget.

**CLERK OF THE BOARD FOLLOW UP ACTIONS**

Clerk of the Board to return one original copy of Lexipol Agreement 043-S1611 to the department.

**STRATEGIC PLAN COMPONENT**

Public Safety

**CONTACT**

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