



Legislation Text

File #: 16-0122, **Version:** 1

Sheriff's Office recommending the Board approve and authorize the Chair to sign retroactive Agreement 346-S1610 with Lexipol, LLC to update the Sheriff's Policy Manual and Custody Manual on an annual basis for a four year period of January 1, 2016 through December 31, 2019, with a total not to exceed amount of \$34,697.

FUNDING: General Fund.

DEPARTMENT RECOMMENDATION

Sheriff's Office recommends the Board approve and authorize the Chair to sign Agreement #346-S1610.

DISCUSSION / BACKGROUND

Lexipol, LLC provides policy manual update guidance to the Sheriff's Office based on the latest changes in Federal and State statutes, regulations, best practices and case law. Lexipol, LLC provides the Sheriff's Office with an essential service that is utilized on a daily basis. Amounts will be paid annually at \$4,500.00 for the Sheriff's Policy Manual and \$4,268.00 for the Custody Manual with a not to exceed amount of \$34,697.00. The first years payment for the Sheriff's Policy Manual will be prorated to \$4,125.00 to exclude January 2016 as it falls under the current contract #329-S1211.

Lexipol's new management is requesting changes to articles in the County's standard contract. Prior contracts with Lexipol included the same changes and were disapproved by County Counsel requiring the Sheriff's Office to bring them to Board for approval. The changes are as follows:

The changes to Article IV Copyright; Derivative Works; Contractor Ownership, Article V Ownership of Rights which was Article VI in previous contracts, Article X Independent Contractor/Liability, and Article XXVIII Limitation of Liability have been rejected by County Counsel due to County Counsel's opinion 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.

The Sheriff's Office understands the position of County Counsel. The Sheriff's Office believes that the language in Article IV Copyright; Derivative Works; Contractor Ownership is reasonable. Through negotiations with the contractor, the Sheriff'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 Sheriff'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 Sheriff's Office, and the Sheriff'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 Sheriff'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 Sheriff's Office is comfortable in complying with. Because the agreement is retroactive, the Sheriff Department is asking for approval in its current form; however, as of the date of publication of the agenda, the CAO's Office was still working with Lexipol's legal counsel to modify the language to be more favorable to the County. If the efforts are successful, the improved contract will be re-routed through Counsel prior submittal to the Chair for signature.

ALTERNATIVES

Failure to approve and sign this amendment could result in the cancellation of the contract and the loss of services to the Sheriff's Office.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

County Counsel and Risk Management were involved in the review of the contract terms and insurance.

CAO RECOMMENDATION

Approve department's recommendation.

FINANCIAL IMPACT

There is no Change to Net County Cost. This expense is budgeted in the Sheriff's FY 2015/16 operating budget and will be included in future years.

CLERK OF THE BOARD FOLLOW UP ACTIONS

Return one original to Sheriff's Office for distribution.

STRATEGIC PLAN COMPONENT

Public Safety

CONTACT

Undersheriff Randy Peshon